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Minnesota Attorney General Keith Ellison

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February 19, 2021

The Honorable Peter A. Cahill
Hennepin County Courthouse
300 Sixth Street South
Minneapolis, MN 55487

Re: State v. Chauvin, Kueng, Lane, and Thao
Court File No. 27-CR-20-12646, 27-CR-20-12953, 27-CR-20-12951, 27-CR-20-12646

Dear Judge Cahill:

I made no contribution of any kind to the recent New York Times article (dated 2/10/21) in which the reporter asserts that Derek Chauvin was willing to plead guilty to third degree murder in state court in exchange for an agreement of non-prosecution for federal criminal charges. No one on our prosecution team contributed to the New York Times report of an alleged plea deal by Chauvin or the alleged involvement of the then-U.S. Attorney General. Defense counsel's allegations are simply not true. We are mindful of our responsibilities under Rules 3.8 and 3.3 of the Minnesota Rules of Professional Conduct.

I conducted a quick internet search of news articles about this alleged plea negotiation. It turns out that these alleged plea negotiations are hardly news at all. I found the following stories below, with relevant excerpts:

Fox 9: Ex-Minneapolis police officer Chauvin was in talks to plead guilty before arrest [June 9, 2020]

At the time, Chauvin was represented by Tom Kelly, who declined to comment. Chauvin's current attorney, Eric Nelson, did not return calls for comment. How and why the deal fell apart, what was the offer on the table, and who walked away, is still unclear. By the next day, Friday, May 29, police arrested Chauvin and the Hennepin County Attorney had charged him with third-degree murder. On Sunday night, May 31, Hennepin County Mike Freeman, under intense public pressure, called Minnesota Attorney General Keith Ellison, and asked him to join the prosecution. The next day, Monday, June 1, Chauvin was scheduled to make an initial court appearance, but it was rescheduled. By Wednesday, June 3, with the Minnesota Attorney General added to the case, Chauvin was charged with second-degree murder, and three other officers involved in the arrest of Floyd were charged with aiding and abetting second-degree murder.

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ABC News: Derek Chauvin was considering guilty plea but deal fell apart: Prosecutor's office [June 10, 2020]

The Hennepin County prosecutor's office confirmed to ABC News that Chauvin and his attorney were negotiating to plead guilty to local murder charges and federal civil rights violation charges before it fell through.

KSTP 5: Officials say Chauvin was in negotiations for plea deal prior to arrest, charges [June 10, 2020]

"There were early negotiations with the defendant, between the Hennepin County Attorney's Office, and the U.S. Attorney," Hennepin County Attorney spokesperson Chuck Laszewski said. Laszewski said those negotiations failed.

WCCO: Official: Plea Negotiations Were Underway Between Derek Chauvin's Attorney And The Hennepin County Attorney's Office [June 10, 2020]
New York Post: Derek Chauvin tried to reach plea deal before arrest in George Floyd case [June 10, 2020]

Judge, the only thing new about the 2/10/21 NYT story is former U.S. Attorney William Barr is named as the one who rejected the plea negotiation, and the exact charge that Chauvin was agreeing to plead to. Nothing is new about the idea that Chauvin was willing to enter a guilty plea in connection with the death of George Floyd. No one from the prosecution contributed in any way to the reporting in the story about the alleged plea deal. But the appearance of the story is not surprising. The news business generates news stories. The trial is imminent. And the murder of George Floyd was international news when it occurred. It generated the largest wave of protests in this era. News stories are going to happen. We will scrupulously observe our professional obligations as we always do.

You have directed me, and presumably the rest of the prosecution team, to file sworn statements stating that we have not had any participation in the NYT story of 2/10/21. As I understand the court's direction, the sworn statements are to be sent to the court by email rather than as a public filing. My unequivocal statements in this letter should be a sufficient response to the baseless allegations by the defense lawyers, especially in the absence of any evidence whatsoever to support their frivolous claims. Nonetheless, if the court continues to insist that we submit sworn statements, I will seek affidavits from the prosecution team to submit by May 7, 2021. However, I am very concerned that the court made this decision in an off-the-record telephone call, with instructions to provide responses in a non-public manner. This may prompt future claims by the media and the defendants of a violation of the right to a public trial. We believe that proceedings in connection with this matter should all be on the record.

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I expect there will be many more articles about the prosecution of the people who are responsible for the murder of George Floyd. I hope the state is not forced to halt trial preparation to react to every spurious claim by the defense.

Sincerely,

A handwritten signature in black ink that reads "Keith Ellison". The signature is written in a cursive style with a large, sweeping initial "K".

KEITH ELLISON
Attorney General

cc: Eric Nelson
Robert Paule
Earl Gray
Tom Plunkett