

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Court File No.: 27-CR-20-12953

Plaintiff,

vs.

**NOTICE OF MOTION AND MOTION
TO CHANGE VENUE**

J. Alexander Kueng,

Defendant.
-----**TO: The State of Minnesota, the Prosecuting Attorneys in the above-entitled case.**

PLEASE TAKE NOTICE That on September 11, 2020 at 9:00 a.m. or as soon thereafter as counsel may be heard, before the Hon. Peter Cahill, Judge of District Court, the Defendant will move for an order as follows:

1. Changing venue from Hennepin County based upon the fact that "potentially" prejudicial material has been disseminated publically by the prosecution, creating a reasonable likelihood that a fair trial in the metro area cannot be had;
2. Directing that the trial occur outside the seven-county metro area, such as Stearns County or another county with appropriate facilities and demographics;
3. For other such relief as is deemed fair and equitable by the Court.

This motion is based on Minn. Stat. § 627, Minn. R. Crim. P. 24.03 and 25.02, and future filings of the Defendant outlining the extent and prejudicial act of the and all the files, records, and proceedings herein.

Massive publicity can give rise to a presumption of prejudice, *Sheppard v. Maxwell*, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d 600 (1966); *Estes v. Texas*, 381 U.S. 532, 85 S.Ct. 1628, 14 L.Ed.2d 543 (1965). A trial judge may order a change of venue pursuant to Minn. R. Crim. P. 24.03, subd. 1 if "satisfied that a fair and impartial trial [cannot] be had in the county in which the case is pending." A motion for * * * change of venue shall be granted whenever it is determined that the dissemination of potentially prejudicial material creates a reasonable likelihood that in the absence of such relief, a fair trial cannot be had. *See* Minn. R.Crim. P. 25.02, subd. 3.

Counsel has learned that there are in excess of 1700 local articles focusing on this prosecution. Many of the articles stem from comments from the State of Minnesota and is several State actors. The State's actions have stripped Mr. Kueng's rights to a fair trial. The requested relief is needed to protect the integrity of the proceedings and Mr. Kueng's fundamental rights.

Respectfully submitted,

Date: August 27, 2020

/s/ Thomas C. Plunkett

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