

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

v.

J. Alexander Kueng,

Thomas Kiernan Lane,

Tou Thao,

Defendants.

AFFIDAVIT OF MATTHEW FRANK

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

Court File No.: 27-CR-20-12951

Court File No.: 27-CR-20-12949

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

MATTHEW FRANK, being first duly sworn deposes and states:

1. I make this affidavit in support of the State's response to the Defendants' motions regarding alleged discovery violations.
2. When this office receives a flash drive of investigative reports and other discovery from an outside agency, a staff person copies each file from the flash drive onto the office's network and places Bates numbers on each page. The prosecution team then works from the Bates-labelled files on our system, not the flash drives.
3. In June 2020, the BCA provided this office with a flash drive that contained numerous files of records for this case. A staff person followed the process described above and the disclosures were made to the defense counsel.
4. Many of the files contained Minneapolis Police Department (MPD) PowerPoint training materials. This raised the question of whether those PowerPoints contained

comments, videos, and live links that were not copied from MPD records to the BCA or from the BCA to this office. This office requested that the BCA obtain from the MPD electronic copies of the PowerPoint presentations. The BCA did so, and provided to the undersigned a flash drive with those PowerPoints late in the day on Thursday, January 14, 2021.

5. When I received the flash drive from the BCA on January 14, 2021, I began looking at the files to see if there were indeed live links and videos. I was able to confirm that some of them did have live links and videos. In doing so, I noticed a PowerPoint presentation titled “The New Lateral Vascular Neck Restraint 12-3-2007 – 8 hrs,” which did not look familiar to me. I could not recall seeing that PowerPoint presentation in the Bates-labelled files I had reviewed as the discovery in the case. I had that PowerPoint Bates labelled and disclosed both in that format and in electronic format. It took nearly a full day to make four copies of the flash drive because of the amount of data and it was then served on opposing counsel after the long holiday weekend.
6. On Friday, January 15, I called counsel for Defendant Chauvin and explained that the discovery forthcoming contained electronic versions of the PowerPoints. I also explained that I had seen this Lateral Vascular Neck Restraint PowerPoint I did not recognize from our prior disclosures, and that I did not know whether MPD had provided this to us for the first time because I had not had the time to go back and check the flash drives the BCA originally gave to us with the MPD PowerPoints.
7. Later, I was able to go through the original flash drive the BCA provided and found the Lateral Vascular Neck Restraint PowerPoint on that flash drive. Upon further

inquiry, it appears that our staff person inadvertently did not copy that PowerPoint over to our system. Because our office was working from the Bates-labelled files copied over to our system, the first time I saw the 2007 Lateral Vascular Neck Restraint PowerPoint was when I opened the flash drive the BCA provided to this office late in the day on January 14, 2021.

FURTHER AFFIANT SAYETH NAUGHT.

/s/Matthew Frank
MATTHEW FRANK

Subscribed and sworn to before me
this 26th day of February 2021.

/s/ Ann M. Chalmers
Notary Public

My Commission Expires Jan. 31, 2022