

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

State of Minnesota,	)	
	)	
Plaintiff,	)	<b>STATE’S MOTIONS FOR JUROR</b>
	)	<b>QUESTIONNAIRES AND TO CONDUCT</b>
vs.	)	<b>INDIVIDUAL VOIR DIRE</b>
	)	
<b>MOHAMED MOHAMED NOOR,</b>	)	MNCIS No: 27-CR-18-6859
	)	
Defendant.	)	

TO: THE HONORABLE KATHRYN QUAINANCE, HENNEPIN COUNTY DISTRICT COURT; COUNSEL FOR DEFENDANT; AND DEFENDANT.

### MOTIONS

This case is set for jury trial on April 1, 2019. As the court and counsel are aware, this case has been the subject of statewide, national, and international news coverage. In the interest of selecting fair and impartial jurors, the State moves that prospective jurors complete a court-approved questionnaire before questioning by the court or counsel. Additionally, the State moves that once *voir dire* begins, the court and parties question prospective jurors individually, outside the presence of their fellow prospective jurors.

### MEMORANDUM OF LAW IN SUPPORT OF MOTIONS

#### **I. The Rules of Criminal Procedure Allow for Juror Questionnaires and Individualized *Voir Dire*.**

In jury selection, the defendant and the State conduct *voir dire* to “discover grounds for challenges for cause and to assist in the exercise of peremptory challenges.” Minn. R. Crim. P. 26.02, subd. 4(1) (2018). To help ensure jurors answer sensitive questions candidly, the court may order the use of a jury questionnaire as a supplement to *voir dire*. *Id.* at subd. 2(3).

Additionally, the court has the discretion to allow the parties to examine each juror outside the presence of other potential jurors. *Id.* at subd. 4(2)(a). Where there is a significant possibility of exposure to prejudicial material, i.e., pretrial publicity, the examination of each juror with respect to the juror's exposure *must* take place outside the presence of the other prospective and/or selected jurors. *Id.* at subd. 4(2)(b) (emphasis added). The Minnesota Supreme Court has recognized that the use of questionnaires and individual *voir dire* can mitigate the effects of pretrial publicity. *See State v. Fairbanks*, 842 N.W.2d 297, 303 (2014).

## **II. Questionnaires and Individual *Voir Dire* Are Appropriate in This Case.**

There is every reason to believe that the Hennepin County jury pool can deliver a fair and impartial jury in this case, provided that the court uses the safeguards and tools provided by the rules of criminal procedure. With respect to the questionnaire, jurors will have the ability to express their opinions and beliefs honestly without having to share them in front of the other jurors. Prospective jurors' opinions and experiences regarding police in general, police use of force, race, and other potentially sensitive issues could affect their ability to be fair and impartial in this case and it is necessary to explore that with the jurors in a manner that encourages honest and full disclosure.

With respect to individual juror examination, in this case, the rules require it. There has been pervasive pre-trial publicity connected to every event that has occurred, beginning with the defendant's shooting of Ms. Ruszczyk and continuing with every court proceeding and filing. The desire for information seems only to increase as trial grows nearer. To handle the demand for information, the district court took the rarely-used step of setting up a webpage and email notifications for events and filings. Such media and public interest is necessarily accompanied by the potential for prejudicial pretrial publicity that could influence a potential juror. Not every

event documented by the media about this case has been accurate. Also, because this case will be tried in a courtroom, as of now, only a fraction of the actual evidence has been made public which could lead a person to form opinions based on incomplete information. Many articles, news segments, Internet postings, etc., published by the media or by individual persons/commenters contain opinions of those wholly unfamiliar with the evidence or issues in the case. Sometimes they are presented as fact.

Hennepin County is the largest judicial district in the state and the ability to secure a fair and impartial jury here is certain. There is every reason to believe there will be some prospective jurors who will have heard a great deal about this case and some who have heard nothing at all. If each prospective juror is questioned individually, there will be no chance that what one juror heard or read can influence another who read or heard something different or one who knows nothing at all. Sequestered, individual *voir dire* is required by the rule in this case and will ensure that there will be candid conversation with each prospective juror to gauge whether he or she has been exposed to pretrial publicity and whether that publicity would cause prejudice to either side.

### **CONCLUSION**

For the foregoing reasons, the State respectfully requests that the court grant the State's motions to use a jury questionnaire and conduct individual questioning of prospective jurors in this case.

Respectfully submitted,

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