

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Case Type: Criminal
Court File No. 27-CR-18-6859
Hon. Kathryn L. Quaintance

Plaintiff,

v.

ORDER ON COURT EXHIBITS

Mohamed Mohamed Noor,

Defendant.

The above-entitled matter came on for a pretrial hearing before the undersigned Judge of District Court on March 29, 2019, in courtroom 1953 of the Hennepin County Government Center, 300 South Sixth Street, Minneapolis, Minnesota.

Amy Sweasy, Esq., and Patrick Lofton, Esq., appeared on behalf of the State of Minnesota.

Thomas Plunkett, Esq., and Peter Wold, Esq., appeared with and on behalf of Defendant Mohamed Noor ("Noor").

On March 13, 2019, the Court issued a second amended scheduling order noticing its intent to discuss, at the pretrial hearing on March 29, any objections pursuant to Minnesota Rule of Criminal Procedure 25 to its pretrial receipt of information in support of motions as court exhibits. The scheduling order invited written submissions on the issue to be filed by March 20, 2019. No written submissions were filed with respect to this issue on that date. The parties indicated that their positions had not changed and that they wished to rest on their previous briefing of the issue prior to the hearing on Noor's motions to dismiss on September 27, 2018. The State submitted its memo on September 19, 2018, and Noor submitted his on September 20, 2018.

It was Noor's position that the materials should not be received *in camera* if they were to be considered by the Court when deciding the motion.

The State's position was that Minnesota Rule of Criminal Procedure 25.03 and *Minneapolis Star & Tribune Co. v. Kammeyer*, 341 N.W.2d 550 (1983), were inapplicable at that juncture because the supplemental materials at issue had not been received into evidence. The State asked that the Court consider the following when deciding whether to accept the materials *in camera*: possible tainting of the jury pool; the inability of the State to redact names of witnesses and other sensitive information prior to submission; the potential for misuse of the information in the press and possible undermining of a fair trial in this case; and the possible undermining of a fair trial in the civil case.

After reviewing and evaluating the materials submitted, however, the Court noted that several submissions contained information concerning Noor's pre-hire psychological evaluation (Minnesota Multiphasic Personality Inventory, or "MMPI"). Because such evidence is privileged, the Court finds that documents containing evidence of Noor's psychological evaluation and its related reports, shall be sealed. None of these documents were admitted into evidence at trial, as the Court found their relevancy and reliability were limited.

Based upon the files, records and proceedings herein, the Court makes the following:

ORDER

1. The Court ordered submissions of materials from both parties in support of their positions on Noor's motions to dismiss. The Court received these materials *in camera* on September 17, 2018, and the hearing was held on September 27, 2018. These materials are to be entered into the record as court exhibits. Exhibits HRG013, HRG014, HRG015, HRG016, and HRG017, which were found to contain information concerning Noor's

psychological evaluation, will remain confidential and shall be accessible only by Amy Sweasy, Esq., Patrick Lofton, Esq., Peter Wold, Esq., and Tom Plunkett, Esq., or any other attorney who can provide verification that he or she is working on an active appeal in this case.

2. The Court also received *in camera*, pursuant to an agreement between the parties, materials in support of Noor's first set of motions *in limine* on February 15, 2019. The hearing on these motions was held March 1, 2019. These materials are to be entered into the record as court exhibits.
3. The Court also received *in camera*, pursuant to its request, materials from Noor on March 6, 2019, in advance of the hearing on his expert's qualifications held on March 29, 2019. These materials are to be entered into the record as court exhibits.
4. The Court also requested the Leica flythrough videos that were the subject of Noor's motion *in limine*, which it received *in camera* from the State on March 18, 2019. The videos were numbered MOT0192a and MOT0193a and were formally accepted at the motion hearing with respect to the admissibility of those videos on April 2, 2019.
5. The Court was sent materials *in camera* on March 15, 2019, in support of Noor's second set of motions *in limine* to which the State objected and which the Court did not request. At the second hearing on the parties' motions held March 29, 2019, the Court declined to accept or consider these materials, and they have not been made part of the record.

BY THE COURT:

Dated 6/10/19



Kathryn Quaintance
Judge of District Court