

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,)
)
 Plaintiff,)
)
 vs.)
)
 MOHAMED MOHAMED NOOR,)
)
 Defendant.)

**STATE’S POSITION REGARDING
COPYING OF TRIAL EXHIBITS**

MNCIS No: 27-CR-18-6859

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

INTRODUCTION

On May 7, 2019, the court contacted the parties and offered the opportunity to take a position on the copying of exhibits introduced at trial in this case. Evidently, some parties besides the State and the defendant have made requests to copy exhibits, although it is unknown to the State who has made such requests and whether there have been specific requests for particular pieces of evidence. It seems it would not be possible to copy exhibits such as uniforms and guns, but it would be possible to duplicate other exhibits such as photos and body worn camera (BWC) video. The State’s position follows.

POSITION AND ARGUMENT

The State of Minnesota opposes providing access to trial exhibits by third parties for the purpose of copying or duplication. In the first place, the criminal case in Hennepin County District Court is neither concluded nor closed. As of today’s date, there are opportunities for the defendant and State to bring any number of post-trial and pre-sentencing motions. Second, after sentencing and after the court enters judgment, the defendant will presumably pursue his right to

appeal and the piecemeal release of exhibits could affect that right. Finally, in this case there are real concerns of, and potential for, misuse of highly-sensitive material without the broader context of why the material was relevant and how it was received at trial. The court has already expressed similar concerns in the order protecting the personal information of the jurors, filed on May 2, 2019. In that order, the court noted the extensive press coverage and the fact that any detail about the jurors not protected by previous orders was published and that further disclosure of information could lead to “unwanted publicity and harassment.” The same potential for misuse and harassment exists here and the court has both a duty and an obligation to safeguard the process, the victim’s rights, and the defendant’s rights as this case continues through the criminal justice system.

While there is a general right of the public to inspect and copy public records and court documents, that right is not absolute. *Nixon v. Warner Communications*, 435 U.S. 589, 595 (1978). A court retains supervisory power of its records and may deny access where records “might...become a vehicle for improper purposes.” *Id.* The decision whether to disclose court records is “best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant circumstances of the particular case.” *Id.*

Neither the First Amendment freedom of the press nor the Sixth Amendment right to a fair trial require that a court disclose documents after a trial. *Id.* at 608. As for the First Amendment, that right extends to the press’s ability to attend the trial and publish any information acquired during the public trial process. *Id.* The press has no greater right to information about a trial than does a member of the general public. *Id.*

Here, there is perhaps no criminal case in the history of the State of Minnesota where the press provided more pervasive and nearly-instantaneous coverage of a trial. The press was

free to report, and did, on every single aspect of the evidence introduced at trial. As for the Sixth Amendment, the trial was open, accessible, and public in every sense of those words. As was the case in *Nixon v. Warner*, the “opportunity of members of the public and the press to attend the trial and to report what they have observed ... abundantly existed here.” *Id.* at 610.

Were the court to permit access to copy and publish selected exhibits, there is significant potential for misuse that could affect the rights of the parties going forward. In particular, the BWC videos contain graphic and disturbing evidence for which context was important during the trial. Without such context, the videos could be used for any number of purposes, some of which could be exploitative at best. Ms. Ruszczyk’s family and the defendant have a right to expect that the exhibits introduced at trial will remain properly safeguarded as their very admissibility may be the subject of future legal proceedings.

The court is vested with the discretion and authority to decide, under the unique circumstances of this case, whether any exhibits should be accessible for copying and publication. Only one week after the verdict, it is far too soon to predict with certainty what will become legally significant in the future. There was a fully open and comprehensive presentation of facts and evidence in this case which satisfies constitutional requirements as they pertain to the public. The court should deny requests from third parties to copy and publish exhibits at this time.

Respectfully submitted,

MICHAEL O. FREEMAN
Hennepin County Attorney

By: 
AMY E. SWEASY (26104X)
Assistant County Attorney
C-2100 Government Center
Minneapolis, MN 55487
Telephone: (612) 348-5561

By: 
PATRICK R. LOFTON (0393237)
Assistant County Attorney
C-2100 Government Center
Minneapolis, MN 55487
Telephone: (612) 348-5561

Dated: May 10, 2019