

H A L B E R G ■ N E L S O N ■ H A Z E L T O N ■ R I S K ■ L A N G



September 13, 2021

The Honorable Peter Cahill  
 Judge of Hennepin County District Court  
 Hennepin County Government Center  
 1251 Court Tower  
 300 South Sixth Street  
 Minneapolis, MN 55487

Re: *State of Minnesota v. Derek Michael Chauvin*  
 Court File No.: 27-CR-12646

Your Honor:

I am writing in response to the State's letter for clarification, dated August 25, 2021. The entries in the time records regarding review of the court of appeals' order ("review COA order") on March 5, 2021, represent two different time periods. In the first motion, the entry refers to time spent on initial review of the court's order immediately after it was filed. The entry with respect to the motion for fees for preparation of the petition for review ("PFR") refers to time spent analyzing the order in greater detail while beginning to prepare the PFR. I apologize for any confusion this may have caused.

With respect to the State's objection to the Defense motion for fees regarding time spent preparing the PFR, the Defense argues that the PFR was a direct and proximate result of the State's pretrial appeal and fees should be permitted. Within a few weeks of trial, the State filed two pretrial appeals in this matter. The first, seeking review of this Court's denial of the State's motion for a continuance, among other issues, was dismissed without being heard on its merits. The second pretrial appeal followed quickly on the heels of the first. When the court of appeals overturned this Court's ruling, the State attempted to leverage the fact that the appellate order was not yet "final" under Minn. R. Civ. App. P. 136.02 to either delay the trial or force Mr. Chauvin to stipulate to an immediate entry of judgment. (*See* State's motion in the court of appeals to stay district court proceedings, Mar. 8, 2021, at 1).

Thus, Mr. Chauvin was faced with a trial delay, which very likely may have been the State's goal given its previous pretrial appeal, or a waiver of his right to supreme court review of the court of appeals' pretrial order. In light of this, the Defense argues that, in this case, it was forced by the State's pretrial machinations to quickly petition the supreme court for review in order to protect Mr. Chauvin's rights. Fortunately, the supreme court expedited its review of the PFR, and the matter was settled by the third day of trial. Hence,

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 DEBBIE LANG ■ ERIC NELSON ■ DAVE RISK ■ AMY VOSS ■ CHRISTINA ZAUHAR

Mr. Chauvin's petition for review to the supreme court was a natural consequence of the State's pretrial appeal to the court of appeals, and reasonable attorney fees must be allowed. Minn. Stat. § 611.27, subd. 16.

Very truly yours,

**HALBERG CRIMINAL DEFENSE**  
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