

death of George Floyd while in police custody, including the criminal charges that were lodged against four Minneapolis police officers.

3. As the criminal cases against the officers unfolded, body camera video obtained by two of the officers during Floyd's arrest was submitted to the trial court in support of a pretrial motion. Presiding Judge Peter Cahill then entered an order on July 9, 2020 directing that the video (and other "non-documentary evidence") would be available for viewing at the Hennepin County Government Center by appointment, but that members of the public and news media who viewed it "were not allowed to record or re-transmit any portions of the video."

4. Not long thereafter, Petitioners were leaked a copy of the video from a third party source not associated with the court, and published an article that included the video on August 3, 2020.¹ Only a few days later, Judge Cahill acknowledged that the video should be directly accessible to the public and news media, and on August 7, 2020, he lifted his prior restriction on copying and public distribution of the video.²

5. On approximately February 14, 2021, a reporter for Petitioners who is covering the criminal case against Derek Chauvin, one of the police officers charged in connection with the Floyd arrest, requested access to proposed trial exhibits that had been filed with the court. Access by other news organizations to those exhibits has been routinely permitted, and the organizations have relied on the exhibits in their reporting. However, the access request from Petitioners' reporter was denied by Judge Barnette, who informed her of this in an

¹ See <https://www.dailymail.co.uk/news/article-8576371/Police-bodycam-footage-shows-moment-moment-arrest-George-Floyd-time.html>.

² See <https://www.mncourts.gov/mncourtsgov/media/High-Profile-Cases/27-CR-20-12951-TKL/Memorandum08112020.pdf>

email, stating as follows:

I have received your request about the process for media credentials for the State v. Chauvin trial. I have directed the staff not to provide media credentials to the Daily Mail for this case. The Daily Mail made a decision to pay for stolen video footage taken from our courthouse. This has jeopardized the integrity of the court process and the court's relationship with community and the media.

However, no Order was issued by Judge Barnette.

6. On February 16, 2021, Cameron Stracher, counsel for Petitioners based in New York, contacted Judge Barnette and sought to persuade him to reverse his decision. In response to Mr. Stracher's email, Judge Barnette stated:

There is nothing in your email that changes my decision. However, if you would like to turn over the name(s) and contact information of the person(s) that Daily Mail paid for the published video footage stolen from our courthouse, I will gladly reconsider my decision.

Again, no Order was issued by Judge Barnette.

7. Over the next several days, a few additional, informal, and inconclusive exchanges occurred between Judge Barnette and Mr. Stracher. Petitioners then retained the undersigned as local counsel, who reached out to Judge Barnette requesting another conversation about the embargo that he had imposed. Judge Barnette agreed to this request, and on March 18, he spoke via Zoom with Petitioners' counsel, during which the undersigned explained why Petitioners believed his decision was unsupportable as a matter of law. In the course of this discussion, Petitioners' counsel asked Judge Barnette to issue a formal Order, should he decide not to modify his position. The above-described conversations with Judge Barnette were not on the record.

8. On Monday, March 22, Petitioners' counsel received an email from Judge Barnette stating in pertinent part as follows: "I have reviewed the cases that we discussed. I have not changed my decision. The Daily Mail will not be given access to the exhibits." No Order accompanied this message. Petitioners' counsel then emailed Judge Barnette asking if he intended to issue an Order. Finally, on Wednesday afternoon, March 24, Petitioners' counsel received an Order from Judge Barnette, confirming the sanction that he had previously imposed on Petitioners.

9. On March 19, Petitioners' reporter submitted a separate request to the district court's communications specialist Spenser Bickett, asking "Can you add me to the list of media receiving updates/info as [the Chauvin] proceedings go along?" On March 22, Bickett responded as follows: "The Court will not provide Chauvin trial updates or information to the Daily Mail."

10. As the basis for his March 24 Order, Judge Barnette pointed to the "theft" of the video, and its subsequent publication by Petitioners. Contrary to Judge Barnette's characterization, however, the video was almost certainly not "stolen." More importantly, Petitioners played absolutely no role in the copying of the video, notwithstanding Judge Barnette's speculation to the contrary. Furthermore, in none of the email exchanges with Judge Barnette described above did he ever suggest that Petitioners violated any law, rule, or court order in obtaining the body camera video, nor has any evidence to the contrary been cited to Petitioners, either in the March 24 Order or otherwise.

FURTHER YOUR AFFIANT SAITH NOT.

s/Mark R. Anfinson _____
Mark R. Anfinson

Subscribed and sworn to by
Mark R. Anfinson before me,
a Notary Public, on March 26, 2021

s/Debra A. Maeurer

Notary Public