

FILED

April 6, 2021

**OFFICE OF
APPELLATE COURTS**

**STATE OF MINNESOTA
IN COURT OF APPEALS**

In re: Mail Media, Inc., et al.,

ORDER

Petitioners,

#A21-0400

State of Minnesota,

Respondent,

vs.

Derek Michael Chauvin,

Respondent.

Considered and decided by Johnson, Presiding Judge; Worke, Judge; and Gaïtas, Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE
FOLLOWING REASONS:**

Petitioners seek a writ of prohibition, challenging an order by the chief judge of the Fourth Judicial District, where the underlying criminal matter is being tried, filed on March 24, 2021. The chief judge indicated that the order was “memorializing” a decision on the denial of media credentials that was made “several months” earlier. Petitioners assert that the district court failed to comply with Minn. R. Crim. P. 25.03 and that restrictions on their “access to criminal court records” infringe on their First Amendment rights. The

American Civil Liberties Union of Minnesota (ACLU-MN) filed a letter as amicus curiae, in support of the petition.

Appellate review by petition is available when the district court has granted or denied (a) public access to criminal pretrial hearings or to transcripts of closed criminal proceedings or (b) restrictions on public access to public records relating to a criminal proceeding. Minn. R. Crim. P. 25.01, subd. 7, .03, subd. 6. The order that is the subject of this petition does not close a pretrial hearing or limit access to orders or transcripts of closed proceedings and it does not restrict public access to public records. Petitioners' reliance on the cited rules is misplaced.

“[T]he First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally.” *Branzburg v. Hayes*, 408 U.S. 665, 684, 92 S. Ct. 2646, 2658 (1972). The record reflects that the criminal trial proceedings are subject to live audio and video coverage and that all public documents are readily accessible on a designated website. Petitioners have not clearly identified what injury they are claiming, in light of the extensive public access being provided in the underlying criminal matter.

Prohibition is appropriate only in extreme cases, and it will not lie if alleged omissions and irregularities could be adequately remedied by way of motion or other action in the district court. *Craigmile v. Sorenson*, 62 N.W.2d 846, 851 (Minn. 1954). Petitioners provided copies of informal emails requesting reconsideration by the district court, but those communications did not present any legal argument or develop a factual record. The

cases cited in the submissions to this court by petitioners and amicus curiae are not addressed in the order being challenged and petitioners have not established that they filed any motion or other pleadings in the district court, addressing the law applicable to imposing damages or sanctions on media representatives. Nor have petitioners presented any argument to the district court or this court about selective enforcement of restrictions on access, differential treatment of media representatives, or the denial of media credentials.

Petitioners have not established that a writ of prohibition is appropriate or that they lack an adequate ordinary remedy.

IT IS HEREBY ORDERED:

1. The request by ACLU-MN for leave to file a letter as amicus curiae in support of the petition is granted.
2. The petition for prohibition is denied.
3. This order shall not be construed as an expression of opinion on other remedies that may be available to petitioners.

Dated: April 6, 2021

BY THE COURT



Matthew E. Johnson
Presiding Judge