

FILED

April 29, 2022

**OFFICE OF
APPELLATE COURTS**

A21-1228

STATE OF MINNESOTA
IN COURT OF APPEALS

STATE OF MINNESOTA,

Respondent,

vs.

DEREK MICHAEL CHAUVIN,

Appellant.

MOTION FOR EXTENSION OF TIME

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The State respectfully requests this Court to extend the deadline to file its brief by 90 days. On April 29, 2022, the undersigned spoke with Appellant’s counsel about this request. He advised that Appellant does not oppose this request and we could advise the Court accordingly. An extension is warranted for four reasons. *First*, the record in this important case is exceptionally voluminous. The transcript alone runs nearly 6,000 pages. Indeed, in light of the extensive record below, this Court granted the parties an additional 3,000 words for their principal briefs. *Second*, the same lawyers representing the State in this appeal represent the State in the upcoming trial of Appellant’s three co-defendants. Without an extension, the State’s brief in this appeal will be due on June 9, 2022—just four days before trial is set to begin. *Third*, an extension is fair. Appellant filed this appeal on September 20, 2021. Appellant did not file his brief until April 25, 2022—over 200 days later. An extension will ensure the State has the necessary and commensurate time to compose its brief. *Fourth*, the requested extension will not prejudice Appellant as he will be serving a federal prison sentence before final resolution of this appeal.

1. On April 20, 2021, a jury convicted Appellant of second-degree murder, third-degree murder, and manslaughter for his role in causing the death of George Floyd.

2. The Hennepin County District Court sentenced Appellant to 270 months in prison. Appellant has also since pleaded guilty to federal criminal charges stemming from the same incident. Appellant is awaiting sentencing for those charges in federal court. *See United States v. Chauvin*, No. 0:21-cr-00108 (D. Minn.).

3. Appellant filed this appeal on September 20, 2021. Appellant’s counsel noticed an appearance in this Court on October 15, 2021.

4. The majority of the transcript was filed on January 18, 2022. A few remaining portions of the transcript were filed on February 22, 2022.

5. On April 19, 2022, in light of “the length of the proceedings in district court and the resulting transcript, as well as the number of issues identified in the statement of the case,” the Court permitted Appellant to file an enlarged brief not exceeding 17,000 words. Order 2 (Apr. 19, 2022).

6. Appellant filed that enlarged brief on April 25, 2022.

7. Without an extension, the State’s brief will currently be due on June 9, 2022. *See* Minn. R. Crim. Pro. 28.02 subd. 10. A 90 day extension would make the State’s brief due on September 7, 2022.

8. This Court should grant the State’s request for a 90-day extension.

9. *First*, as this Court has noted, this important case involves an unusually extensive record. Meanwhile, Appellant’s brief makes numerous arguments on matters ranging from venue to evidentiary rulings and sentencing. It is also nearly 2,800 words longer than the typical brief authorized by this Court’s rules. None of Appellant’s arguments have merit, and none of them warrant upsetting the jury’s thoughtful deliberations and the District Court’s careful sentencing. But additional time will allow the State to fully respond to Appellant’s enlarged brief and the many issues it raises.

9. *Second*, an extension is warranted because the State’s counsel have a number of upcoming deadlines, in particular the trial of Appellant’s three co-defendants for their respective roles in George Floyd’s death. In that case, the parties’ memoranda in support of motions *in limine* are due on May 20, 2022, and responsive memoranda are due on

June 3, 2022. Pretrial proceedings will begin on June 13, 2022, and opening statements will be delivered on July 5, 2022. Counsel expects the trial will last through at least the beginning of August. The State's counsel in this appeal are intimately involved in those upcoming proceedings.

10. *Third*, an extension is fair. Because of the delay in producing and filing the transcript, Appellant had over 200 days to compose his opening brief. Appellant also had the benefit of audio-visual recordings of the proceedings before the transcript was produced. A 90-day extension will ensure the State has the necessary and commensurate time to prepare its brief.

11. *Fourth*, because Appellant pleaded guilty to federal criminal charges for this same incident, Appellant will remain incarcerated regardless of the outcome of this appeal.

Therefore, the State respectfully requests that this Court grant the State's motion for a 90-day extension.

Dated: April 29, 2022

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