

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

**STATE'S NOTICE OF
CRITICAL IMPACT**

Plaintiff,

v.

Derek Michael Chauvin,

Court File No.: 27-CR-20-12646

Defendant.

TO: The Honorable Peter Cahill, Judge of District Court, and counsel for Defendant; Eric J. Nelson, Halberg Criminal Defense, 7900 Xerxes Avenue South, Suite 1700, Bloomington, MN 55431.

NOTICE OF CRITICAL IMPACT

Pursuant to Minn. R. Crim. P. 28.04, subd. 2(1), this serves as the State's notice of its intent to appeal this Court's February 11, 2021 order denying the State's motion to reinstate the charge of Murder in the Third Degree. Notwithstanding the Court of Appeals' contrary decision in *State v. Noor*, __ N.W.2d __, 2021 WL 317740 (Minn. App. Feb. 1, 2021), the District Court held that a third-degree murder charge may not be submitted to the jury where "the death-causing act was solely directed at a single person and was not eminently dangerous to others." Order and Memo. Op. Denying State's Mot. to Reinstate or Add Third-Degree Murder Charge 6 (Feb. 11, 2021).

The District Court's decision "will have a critical impact on the outcome of the trial." Minn. R. Crim. P. 28.04, subd. 2(1). The Minnesota Supreme Court has held that a decision dismissing or barring prosecution of one charge against a defendant has "a critical impact" "even when other charges remain." *State v. Underdahl*, 767 N.W.2d 677, 684 (Minn. 2009). The Court of Appeals has likewise held that the denial of leave to add an offense to the complaint satisfies

the “critical impact” standard so long as the “series of incidents that were the basis for the charges in the original complaint are the exact same incidents that are the basis for the added counts in the proposed amended complaint.” *State v. Baxter*, 686 N.W.2d 846, 851 (Minn. App. 2004). As the Court of Appeals has explained, when the added counts “are part of the same behavioral incidents, the state would be barred from prosecuting on the additional counts at a later time if the [defendant] is convicted on all counts in the original complaint.” *Id.* This “potential bar” satisfies the “critical impact” standard. *Id.* Here, the second-degree murder and second-degree manslaughter charges are based on the “exact same incident[]” as the third-degree murder charge—namely, the events that led to George Floyd’s death. *Id.* Thus, the District Court’s decision barring the State from adding a third-degree murder charge readily satisfies the critical impact standard.

Dated: February 12, 2021

Respectfully submitted,

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