

FILED

October 6, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT

ADM08-8001

In re the Application of Derek Chauvin for
Relief from the Ineligibility Determination of
the State Public Defender.

O R D E R

Derek Chauvin seeks relief under Minn. R. Crim. P. 28.02, subd. 5(5), from the determination of the Office of the Minnesota Appellate Public Defender (OMAPD) that he is ineligible for public-defender representation in an appeal from his conviction in Hennepin County District Court, No. 27-CR-20-12646.

Chauvin was represented in the district court by retained counsel. After his conviction, Chauvin applied for leave to proceed in forma pauperis on appeal, which the district court denied. *See* Minn. Stat. § 563.01, subd. 3(a) (2020). He then applied to the OMAPD for appointment of a public defender, stating that his debts currently exceed his limited assets. *See* Minn. R. Crim. P. 28.02, subd. 5(1) (requiring a defendant to apply to the State Public Defender for representation on appeal).

A defendant is financially unable to obtain counsel if “the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel” for defense of the matter. Minn. Stat. § 611.17(a)(2) (2020). The defendant seeking appointed representation bears the burden of establishing eligibility for appointed counsel. *In re Stuart*, 646 N.W.2d 520, 526 (Minn. 2002).

Having reviewed Chauvin's request, the information provided regarding his assets and debts, and the OMAPD's determination, we conclude that Chauvin has not established that he is entitled to appointed representation at this time.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that Derek Chauvin's request for relief from the public defender's ineligibility determination be, and the same is, denied. This denial is without prejudice to a future application for representation by appointed counsel, *see* Minn. Stat. § 611.18 (2020) (allowing a court to appoint the public defender if "at any stage of the proceedings" a defendant is "financially unable to pay counsel whom the defendant had retained").

Dated: October 6, 2021

BY THE COURT:



Lorie S. Gildea
Chief Justice