

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,

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

Plaintiff,

ORDER

v.

Derek Michael Chauvin,

Defendant.

The above captioned matter came before the undersigned upon the State's motion to exclude any characterization of George Floyd's subjective, internal thought processes but permit characterization of how Defendant should have perceived Mr. Floyd's objective behavior. The Court hereby makes the following findings of fact and Order:

1. The reasonableness of Defendant's use of force turns on objective factors. Mr. Floyd's subjective, internal thought processes are irrelevant to the charged offenses. *See* Order and Mem. Op. Allowing 404(b) Evidence Offered By Def. 4. (Mar. 24, 2021); Order and Mem. Op. on Defense Mot. to Dismiss for Lack of Probable Cause 68 (Oct. 21, 2020); *see also State v. McCormick*, 835 N.W.2d 498, 507 (Minn. App. 2013).
2. MPD's policy in effect on May 25, 2020 required officers to consider "whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to" "[m]edical conditions,"

“[b]ehavioral crisis,” or the “[i]nfluence of drug and alcohol use.” MPDPPM § 5-304(B)(1)(b).

3. How Defendant should have perceived and responded to Mr. Floyd’s objective behavior is thus relevant to determining whether Defendant’s use of force was reasonable. *See* Order and Mem. Op. on Defense Mots. to Dismiss for Lack of Probable Cause 73.
4. Therefore, the parties are: (i) prohibited from characterizing Mr. Floyd’s subjective internal thought processes that would have been unknowable to Defendant; but (ii) the parties are permitted to characterize Mr. Floyd’s behavior for the purposes of stating that Defendant should have considered that Mr. Floyd’s lack of compliance was due to deliberate resistance or an inability to comply.

BY THE COURT

Dated: _____

 Honorable Peter A. Cahill
 Judge of District Court