

STATE OF MINNESOTA  
HENNEPIN COUNTY

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

State of Minnesota

Plaintiff,

The Honorable Regina M. Chu

vs.

Kimberly Ann Potter

Defendant

Dist. Ct. File 27-CR-21-7460

**DECLARATION OF  
SUKI DARDARIAN  
IN SUPPORT OF  
MEDIA COALITION'S MOTION  
OBJECTING TO CLOSURE OF TRIAL  
TO THE PRESS AND PUBLIC**

Suki Dardarian, declares as follows:

1. I am Managing Editor of the *Star Tribune*. I submit this declaration in support of the Media Coalition's Motion Objecting to Closure of Trial to the Press and Public. This declaration is based on my review of *Star Tribune*'s records and published news reports, on my personal knowledge, and on conversations I have had with my staff. I am competent to testify to the facts set forth below.

2. I have been a journalist for nearly 40 years and I have been managing editor at the *Star Tribune* since 2014. I have personally covered many civil and criminal trials throughout my career as a journalist. I am supervising the *Star Tribune*'s coverage of the above-referenced case. I also supervised *Star Tribune*'s coverage of the criminal trials of Mohamed Noor and Derek Chauvin, and those experiences inform the views stated below.

3. I understand that the Court issued an order in August prohibiting audio/visual coverage of the trial in this case. I further understand that the trial will be held in Courtroom 1856, which is the same courtroom where Mr. Chauvin was tried, and which has no gallery for spectators. I

further understand that the press and public's access to the courtroom in this trial is expected to be similar to what it was in the trial of Mr. Chauvin, where only two seats were reserved for members of the news reporting pool (one for a print journalist and one for a broadcast journalist); one seat was reserved for a Court TV producer, and no member of the general public was admitted into the courtroom. And I further understand that this Court intends to use "overflow" rooms that, as of August, it anticipated would each accommodate approximately 50 people who will be able to watch the proceedings via closed-circuit feed.

4. Based on these understandings, this trial will be far less accessible to the press and the public than the Chauvin trial, and even than the Noor trial, which itself provided a level of access woefully inadequate to accommodate every member of the press and public who wanted to attend. During the Noor trial, court staff wedged as many seats into the gallery as possible and everyone sat shoulder to shoulder. Some members of the media had reserved seats but those who did not tried to be the first to arrive every morning, to beat other members of the press and public to a non-reserved seat in the courtroom. This meant that lines often formed outside the courtroom where everyone was made to go through rigorous security. Overflow rooms featuring a closed-circuit feed were available to the press and public during the Noor trial, but the situation in those was similar—they too became crowded on certain days of trial, depending on what was happening in the courtroom.

5. The number of people interested in observing the Noor trial was particularly crushing on the day of the verdict and on the day of Noor's sentencing. On both days, because court security allowed only so many people on the floor of the courthouse where the trial was taking place, members of the press and public packed into elevators and rode them up and down, repeatedly stopping on the courtroom floor until security allowed them to disembark. I understand that on

both days the elevator bank was crammed with people, snaked in a line and waiting to go through security. I understand that many of them were ultimately turned away because not even the overflow rooms could accommodate them.

6. Of course, the Noor trial happened before the current pandemic, which I understand remains a concern for the Court and which may be driving the extremely strict limitations on access to the trial in this case. So while the crowding at the Noor trial was uncomfortable and inconvenient, it did not present a risk to public health. It will be difficult for the Court to enforce social distancing among those trying to attend the trial in this case if it requires interested members of the press and public to come to the courthouse in person to watch it.

7. I expect there to be even greater public interest in the trial in this case than in the Noor case, given the intervening murder of George Floyd by Mr. Chauvin and the resulting social justice movement that swept the nation. Meanwhile, this is just one of several pending, local cases involving criminal charges against current or former police officers: federal charges remain pending against Mr. Chauvin and his codefendants; the State is set to try those co-defendants in this district in March, and charges were recently announced against Brian Cummings, who killed Leneal Frazier during a high-speed chase. Meanwhile, residents in Minneapolis will vote next week on a charter amendment that could dramatically affect policing. To say that this community remains laser-focused on whether and how former police officers such as Ms. Potter are held accountable for their actions is an understatement.

8. Thus, if attending in person is the only way to monitor the proceedings—and even if the Court can, consistent with the First Amendment, limit in-person attendance to a few people socially distanced in the courtroom and overflow rooms—it will struggle to control the jockeying for seats. If *Star Tribune*'s experience in the Noor case is any indication, people will congregate

outside the courthouse, in the skyway level of Government Center, and in the elevators and the elevator banks as they vie for one of the limited spots available. Indeed, even for the resentencing of Noor earlier this month, the court reserved seven seats for members of the press that were allocated based on a first-come, first-served approach. Journalists began lining up at 5:30 a.m. outside Government Center, and when the doors opened at 6:00 a.m., they sprinted to be one of the first to add their names to the reservation list.

9. In contrast—and likely due to the fact that it was livestreamed, which enabled the Court to drastically limit the number of people who attended the trial in person—the atmosphere in Government Center during the Chauvin trial was calm and professional, despite the intense attention that prosecution received. There were no unruly lines or crowds of people in Government Center and members of the press who could not attend the trial in-person had adequate accommodations nearby that provided robust access to the live stream of the trial in a manner that still allowed these journalists to accurately, and completely report on the goings on each day in the courtroom.

10. If the Court's concern concerns about COVID-19 are what is driving the severe limitations on press and public access to the trial in this case, then it is unclear to me why the Court would require observers of the trial to crowd into the hallways and elevators of Government Center and watch the proceedings communally in stuffy overflow rooms. If COVID-19 remains a public health risk, and if the Court does not provide audio and visual access to this trial, I fear the trial in this case may unnecessarily put observers at a greater risk of infection and put others in the courthouse and community at risk.

11. I am seriously concerned by the Court's apparent belief that a closed-circuit video feed to overflow rooms using courthouse technology and personnel provides adequate access to the

press and public. As an experienced courts reporter, I can attest that there really is no substitution for being in the courtroom itself. Only those sitting in the actual courtroom can simultaneously observe the defendants and their counsel, the families of the defendants and the victim, the witnesses, the jurors, and the judge and reliably report not only what was said, but who said it and how they acted—and reacted—as each day of trial wears on. Only those sitting in the courtroom can hear quiet nonverbal noises—gasps, sighs, clicks of the tongue, muffled weeping—and observe important gestures and body language that are either too subtle for the camera lens to pick up or out of its view finder.

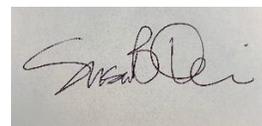
12. I regret but understand that this Court (and the Minnesota Supreme Court) believe that dangers posed by the ongoing pandemic may severely limit the ability of the press and public to watch the trial from the actual courtroom. But if they are to be excluded, then every effort must be made to capture the proceedings as comprehensively and accurately as possible. In my own experience and based on accounts provided by my staff, including those who covered the Noor trial, closed-circuit court feed falls woefully short.

13. More to the point, my reporters' experience in the overflow room during the Noor trial was terrible. The video on the close-circuit feed was static—in that the vantage point was singular and did not move—and poor. It gave a grainy, panoramic view of the courtroom from a single camera mounted near the ceiling, showing counsel tables, the judge, and the witness stand. Neither jurors nor people in the gallery were visible at all. And even those shown on the screen were so far away from the camera and depicted from such an angle (i.e., an “eye in the sky”) that it was often difficult to tell who was speaking, who was sitting at each counsel table, much less discern visuals such as facial expressions. As it will be in the trial in this case, video evidence captured by police body-worn cameras was key at Noor's trial, and yet I understand that it was

all but impossible to see that evidence from the overflow rooms. When video evidence was played in the courtroom, all people in the overflow room could see was that trial participants were watching a television screen. They could not discern what was actually transpiring on that screen. Nor could people in the overflow room see the contents of documentary exhibits. Meanwhile, I understand that the audio in the overflow room was poor—there was an echo effect as if people were speaking from inside a tunnel. Further, the video on the closed-circuit feed sometimes lagged the audio (making gestures incongruous) and that attorneys sometimes fail to approach the lectern, making their remarks inaudible.

14. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 29, 2021.



/s/

Suki Dardarian