

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

ORDER

vs.

**DEREK MICHAEL CHAUVIN,
TOU THAO,
THOMAS KIERNAN LANE,
J. ALEXANDER KUENG,**

Dist Ct. File 27-CR-20-12646
Dist Ct. File 27-CR-20-12949
Dist Ct. File 27-CR-20-12951
Dist Ct. File 27-CR-20-12953

Defendants.

This matter came before the Court on the State's notice of intent to seek an aggravated sentence pursuant to *Blakely v. Washington*, 542 U.S. 296 (2004).

Keith Ellison, Minnesota Attorney General, Matthew Frank, Assistant Attorney General, and Neal Katyal, Special Assistant Attorney General, appeared on behalf of the State of Minnesota.

Eric J. Nelson, Attorney at Law, appeared on behalf of Defendant Chauvin. Robert M. Paule and Natalie R. Paule, Attorneys at Law, appeared on behalf of Defendant Thao. Earl P. Gray, Attorney at Law, appeared on behalf of Defendant Thomas Lane. Thomas C. Plunkett, Attorney at Law, appeared on behalf of Defendant Kueng.

Based on all the files, records, and proceedings, the Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Probable cause exists to submit all the interrogatories proposed by the State¹ to the *Blakely* finder of fact and for the State to argue to the Court that any or all of the five grounds detailed in its *Blakely* notice² constitute substantial and compelling circumstances justifying an aggravated durational departure at sentencing.

ORDER

1. Pursuant to Minn. R. Crim. P. 11.04, Subd. 2(b), evidence supporting the State's motion for an aggravated sentence will be received as part of a unitary trial, but argument and submission of interrogatories for *Blakely* will be made separately pursuant to Minn. R. Crim. P. 11.04, Subd. 2(c), after a guilty verdict, if any, is returned on any count. Submission of interrogatories may be limited under Minn. R. Crim. P. 23.03, Subd. 18 (1)(b).

2. Any *Blakely* verdict in favor of the State will be followed by briefing by the parties before sentencing as to whether the facts established by proof beyond a reasonable doubt constitute substantial and compelling circumstances justifying an aggravated durational departure from the presumptive sentence under the Minnesota Sentencing Guidelines.

BY THE COURT:

Peter A. Cahill
Judge of District Court

¹ See State's Proposed Jury Interrogatories for Aggravating Factors, filed October 12, 2020.

² See State's Notice of Intent to Seek an Upward Sentencing Departure, filed August 28, 2020.