

STATE OF MINNESOTA
IN COURT OF APPEALS



State of Minnesota,

Respondent,

vs.

Derek Michael Chauvin,

Appellant.

ORDER

#A21-1228

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. On September 20, 2021, appellant filed a notice of appeal by mail from the Hennepin County District Court's June 25, 2021 judgment of conviction. Appellant is self-represented in this appeal.

2. Together with the notice of appeal, appellant filed a statement of the case, a motion to proceed in forma pauperis (IFP) in this court, and a motion to stay this appeal pending the Minnesota Supreme Court's review of his ineligibility determination by the Office of the Minnesota Appellate Public Defender (OMAPD).

3. By notice of case filing issued on September 24, 2021, the clerk of the appellate courts notified appellant of deficiencies in this appeal. Specifically, appellant was directed to (1) pay the \$550 filing fee associated with this appeal; (2) provide proof of service of the notice of appeal on the district court administrator; and (3) provide proof of service of the notice of appeal, statement of the case, and motion to stay this appeal on the

county attorney and the attorney general. The notice informed appellant that he has ten days in which to remedy these deficiencies.

4. On September 28, 2021, Assistant Attorney General Matthew Frank notified this court that he is counsel for respondent in this matter.

5. A defendant appealing from a final judgment of conviction pursuant to rule 28.02 of the Minnesota Rules of Criminal Procedure who wishes to proceed IFP on appeal is required to apply to OMAPD for a determination of indigency and eligibility for representation on appeal. Minn. R. Crim. P. 28.02, subd. 5(1)-(5). Because this appeal is taken pursuant to rule 28.02, this court is without the authority to grant appellant's request to proceed IFP in this matter.

6. If OMAPD determines that a defendant is not eligible for representation on appeal, the defendant "may apply to the Minnesota Supreme Court for relief." Minn. R. Crim. P. 28.02, subd. 5(5). On October 6, 2021, the Minnesota Supreme Court denied appellant's request for relief from OMAPD's ineligibility determination. Appellant's request for a stay pending that ruling is therefore moot.

7. Appellant's statement of the case indicates that transcripts are necessary for this appeal and contains a request for oral argument. A written request for transcripts must be filed within 30 days after the notice of appeal is filed. Minn. R. Crim. P. 28.02, subd. 9. Appellant's brief is due within 60 days after the court reporter delivers the transcript. *Id.*, subd. 10.

8. When an appellant is unrepresented by counsel, "the case will be submitted on the briefs and record, without oral arguments by any party." Minn. App. Spec. R. Prac.

2. Because appellant is currently unrepresented in this appeal, oral argument is not permitted. If appellant later obtains counsel, however, he may file a motion with this court requesting oral argument.

IT IS HEREBY ORDERED:

1. On or before October 15, 2021, appellant shall file proof of service of the notice of appeal on the Hennepin County District Court Administrator, and file proof of service of the notice of appeal and statement of the case on the Minnesota Attorney General.

2. Appellant's motion to proceed IFP in this court is denied.

3. Appellant's motion to stay this appeal is denied.

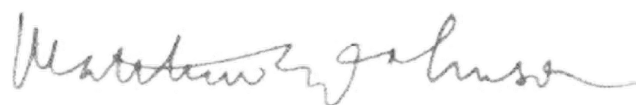
4. On or before October 22, 2021, appellant shall pay the \$550 filing fee.

5. On or before October 22, 2021, appellant shall order a transcript of the district court proceedings from the court reporter and make financial arrangements for the court reporter to file a completed transcript certificate by November 12, 2021. *See* Minn. R. Civ. App. P. 110.02, subd. 2.

6. Appellant's request for oral argument is denied without prejudice to a subsequent motion for oral argument filed by counsel.

Dated: October 8, 2021

BY THE COURT



Judge Matthew E. Johnson