

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

v.

Derek Michael Chauvin,

Defendant.

ORDER DENYING MEDIA CREDENTIALS

Court File No. 27-CR-20-12646

On May 25, 2020, George Floyd died while being subdued and taken into custody by Minneapolis Police officers. Within hours of his arrest and death, cell-phone video of the incident was posted to social media and spread widely and quickly across the internet. Public anger over Mr. Floyd's death—fueled and informed by the cell-phone video—sparked days of civil unrest in the Twin Cities, ranging from massive peaceful protests and marches to widespread property damage. This outpouring of public grief and anger was not unique to Minnesota: protests and marches related to Mr. Floyd's death occurred across the United States and throughout the world.

Mr. Floyd's death received intense and sustained coverage in the local, national, and international press.

In the days following Mr. Floyd's death, prosecutors brought criminal charges against the four former Minneapolis Police officers involved in the incident: Derek Chauvin, Thomas Lane, J. Alexander Kueng, and Tou Thao.

As part of pre-trial litigation in these cases, counsel for Thomas Lane filed a Motion to Dismiss for Lack of Probable Cause on July 7, 2020. Lane attached a number of exhibits in support of his Motion, including video footage from Lane's and Kueng's body-worn cameras

showing parts of the officers' interactions with Mr. Floyd. Because the exhibits supporting Lane's motion were received into the court record, they became public documents.

The public nature of the body-worn camera footage, coupled with the intense press-coverage of the case, presented the Court with a difficult challenge. On the one hand, in certain circumstances the public and press have a right to access judicial records such as the body-worn camera footage submitted as exhibits in Lane's case. *See, e.g., Nixon v. Warner Communications, Inc.* 435 U.S. 589 (1978); *Minneapolis Star and Tribune Co. v. Kammeyer*, 341 N.W.2d 550 (Minn. 1983); Minn. R. Pub. Access to Records, Rule 2; Minn. R. Crim. Pro. 25.03. On the other hand, a trial court has an "affirmative constitutional duty to minimize the effects of judicial pretrial publicity" to protect a defendant's rights, *Gannett Co., Inc. v. DePasquale*, 443 U.S. 368, 378 (1979), and "[g]iven the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of jurors, [trial courts] must take strong measures to ensure that the balance is never weighed against the accused." *Sheppard v. Maxwell*, 384 U.S. 333, 362 (1966).

Mindful of the Court's obligations both to provide transparent access to judicial proceedings and to protect the defendants against excessive pretrial publicity, a July 9, 2020, Order signed by the Honorable Peter Cahill made non-documentary evidence available for viewing at the Hennepin County Government Center. Judge Cahill's Order provided that viewing could be arranged by contacting District Court Media Relations personnel. District Court Media Relations arranged for the exhibits to be viewed by appointment at the Government Center on July 15, 2020. Per the viewing policy laid out by Media Relations personnel, members of the public or press who viewed the exhibits were allowed to take notes as they viewed the footage, but were not allowed to record or re-transmit any portions of the video.

On August 3, 2020, the Daily Mail published extensive portions of the body-worn camera footage on its website. Subsequent investigation by District Court Administration revealed that the footage had been stolen around the time it was available for public viewing. It has not been proven to the Court whether the Daily Mail did or did not play a role in the theft of the footage. It is clear, however, that the Daily Mail was the first media outlet to publish the stolen footage.

The Court treats the theft of the footage and its subsequent publication with the utmost seriousness. The Court understands the important role that media plays in our society generally and the criminal justice system specifically. Nevertheless, in situations where a Court Order has been violated and a media outlet knowingly exploits the violation by publishing stolen records of court exhibits, the Court is required to pursue an equitable consequence.

The Court has therefore determined that the Daily Mail will be denied media credentials for the upcoming trial in *State v. Derek Chauvin* (27-CR-20-12646). Its staff and reporters will be denied access to all trial exhibits, to the media center, and to all media updates related to the trial.

No provision of this Order stops the Daily Mail from obtaining the trial exhibits from other media outlets. This Court assumes that the Daily Mail paid for the stolen video footage. The Court is therefore confident that the Daily Mail can pay to obtain the trial exhibits associated with this case. This is not a hardship for the Daily Mail, it is merely an inconvenience.

The Court does not make this decision lightly, but it has no other equitable and appropriate response to the Daily Mail's purchase and publication of the stolen footage.

The Court initially made this determination regarding the Daily Mail's credentials several months before the filing of this Order. The Court is now memorializing the decision

and its reasoning in this written Order at the request of counsel for the Daily Mail to allow them to seek full legal review of the decision.

ORDER

1. For the foregoing reasons, the Daily Mail is denied media credentials to cover *State v. Derek Chauvin* (27-CR-20-12646). Daily Mail staff are denied access to all trial exhibits, to the media center, and to any and all other media updates related to the trial.

Date: March 24, 2021

BY THE COURT:

/s/ Toddrick S. Barnette

Toddrick Barnette
Chief Judge of District
Court