

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Court File No. 27-CR-20-12646

State of Minnesota,  
Plaintiff,  
vs.  
Derek Michael Chauvin,  
Defendant.

**AFFIDAVIT OF  
ERIC J. NELSON**

STATE OF MINNESOTA )  
                                  ) ss.  
COUNTY OF HENNEPIN )

Eric J. Nelson, being first duly sworn, states as follows:

1. I am an attorney licensed to practice law in the State of Minnesota and the attorney for the above-named Defendant.
2. On or about Wednesday, January 27<sup>th</sup>, I received an email from Timothy Arango wherein Mr. Arango identifies himself as a reporter for the New York Times.
3. Mr. Arango indicated that he would be in town for a few days and asked me to meet for an off the record chat. (See, Exhibit 1, attached hereto and incorporated herein by reference).
4. I responded to Mr. Arango that I am not commenting on or off the record about this matter.
5. On or about January 28, at approximately 12 p.m., I received a call from Mr. Earl Gray, attorney for Thomas Lane, informing me that he had just met with a New York Times reporter and that the reporter had a copy of the State's pre-trial

appeal. Mr. Gray informed me that he had read the document, learned that the State was appealing the district court's denial of its continuance motion, and it was to be filed some point that afternoon. (See, Exhibit 1).


6. On January 28, 2021, at approximately 3 p.m., the State of Minnesota did in fact file their first appeal to the Minnesota Court of Appeals. (See, Exhibit 1).
7. On or about February 10, 2021, I received another email from Mr. Arango. Mr. Arango stated in his email that he had learned "that Mr. Chauvin had agreed to plead to third-degree murder, which would have resulted in more than ten years in prison, but at the last minute, Attorney General Barr backed away." The email went on to provide additional information about the plea negotiations between Mr. Chauvin's prior attorney and the federal government. (See, Exhibit 1).
8. On or about February 10, immediately after receiving Mr. Arango's email, I responded, "Thanks for checking. I am not commenting on any aspect of this matter." (See, Exhibit 1).
9. Later that same day, the New York Times published an article *Why William Barr Rejected a Plea Deal in the George Floyd Killing*. The following day, February 11, 2021, the StarTribune published an article titled, *Officials: Chauvin was ready to plead to 3<sup>rd</sup>-degree murder*. In these two articles, as the court is aware, Mr. Arango cites sources with direct knowledge of the plea negotiations and outlines various aspects of the plea negotiations.

10. I am not the source of the information in the above-referenced articles.

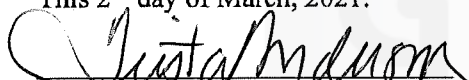
11. I do not know the identity of the source of the information.

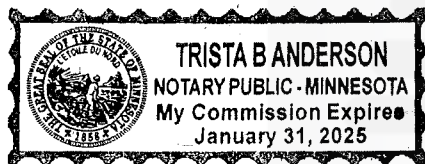
Further your affiant sayeth naught.

Dated: March 2, 2021

  
Eric J. Nelson

Subscribed and sworn to before me  
This 2<sup>nd</sup> day of March, 2021.

  
Notary Public



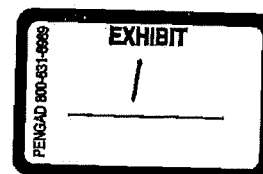
MINNESOTA  
JUDICIAL  
BRANCH

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Wednesday, February 17, 2021 at 14:48:27 Central Standard Time

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**Subject:** Re: New York Times calling  
**Date:** Wednesday, February 10, 2021 at 12:32:58 PM Central Standard Time  
**From:** Eric Nelson  
**To:** Timothy Arango



Thanks for checking. I am not commenting on any aspect of this matter.

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**From:** Timothy Arango <tarango@nytimes.com>  
**Date:** Wednesday, February 10, 2021 at 12:28 PM  
**To:** Eric Nelson <enelson@halbergdefense.com>  
**Subject:** Re: New York Times calling

Hi Eric,

I hope you are well.

I'm reaching out because we are doing a story today about the upcoming trial and there is something I need run by you to see if either you or Mr. Chauvin wish to comment. The piece is a broad look at the trial and the apprehension in Minneapolis about the proceedings because of the possibility of unrest.

One part of the piece is my reporting on the details of the failed plea deal last May. In my reporting, this is what I learned: that Mr. Chauvin had agreed to plead to third-degree murder, which would have resulted in more than 10 years in prison, but at the last minute Attorney General Bill Barr backed away. According to my reporting, Mr. Chauvin and his lawyer at the time, Mr. Kelly, had insisted the federal government sign on so it was one big package – so Mr. Chauvin wouldn't in the future also face federal charges. My understanding of why Barr walked away was that he felt it was too early in the process and a full investigation hadn't been conducted; he worried that it would be seen as too lenient by protesters in the streets; and at the same time the state and Ellison were about to take over, and while Freeman wanted to do this deal, Barr wanted to let the state make its own decisions about how to proceed.

Please let me know if you wish to comment, or if there is any context you think I'm missing (even if on background). If you prefer you can reach me anytime on [REDACTED].

Thanks much,

Tim

On Wed, Jan 27, 2021 at 2:28 PM Eric Nelson <enelson@halbergdefense.com> wrote:

Thanks for reaching out. I am not commenting on or off the record at this point. I am focusing on prepping the case for trial. I understand the interest, however, need to focus on the case first.

**From:** Timothy Arango <[tarango@nytimes.com](mailto:tarango@nytimes.com)>  
**Sent:** Wednesday, January 27, 2021 4:11 PM  
**To:** Eric Nelson <[enelson@halbergdefense.com](mailto:enelson@halbergdefense.com)>  
**Subject:** Re: New York Times calling

Hi Eric,

I hope this note finds you healthy and well. I am reaching out because, as I said in a previous email, I'm going to be covering the Chauvin trial for the New York Times. I am in Minneapolis for a few days, and wanted to see if you would be willing to meet for an off-the-record chat, basically so I can introduce myself. Just let me know. I can be reached anytime at [REDACTED].

All best,

Tim

On Thu, Nov 5, 2020 at 10:31 AM Eric Nelson <[enelson@halbergdefense.com](mailto:enelson@halbergdefense.com)> wrote:

I am not commenting on the case at this time. Thanks for checking.

Eric Nelson  
Halberg Criminal Defense  
612-333-3673  
7900 Xerxes Avenue South  
Suite 1700  
Bloomington, MN 55431

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**From:** Timothy Arango <[tarango@nytimes.com](mailto:tarango@nytimes.com)>  
**Sent:** Thursday, November 5, 2020 11:27:17 AM  
**To:** Eric Nelson <[enelson@halbergdefense.com](mailto:enelson@halbergdefense.com)>  
**Subject:** New York Times calling

Eric,  
by way of introduction my name is Tim Arango and I am a reporter at the New York Times. I will be part of our team covering the Chauvin trial, and today I was reaching out to see if you had any comment on the judge's rulings today. I can be reached at [REDACTED].  
Thanks much,  
Tim