

STATE OF MINNESOTA  
COUNTY OF DAKOTA

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DISTRICT COURT  
FIRST JUDICIAL DISTRICT

File No. ~~19CR-14-4677~~  
19HA-CR-14-2677

State of Minnesota,

Plaintiff,

vs.

Brian George Fitch,

Defendant.

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**ORDER CHANGING  
VENUE FOR TRIAL**

The above-entitled matter came before the Honorable Mary J. Theisen, Judge of District Court, on November 26, 2014, at the Dakota County Judicial Center, Hastings, Minnesota.

Phillip Prokopowicz, Chief Deputy Dakota County Attorney and Richard Dusterhoft, Assistant Ramsey County Attorney, appeared as counsel for and on behalf of the State of Minnesota.

Lauri Traub and Gordon Cohoes, Attorneys at Law, appeared as counsel for and on behalf of the Defendant. The Defendant was personally present.

At the hearing, the Court heard argument on several defense motions. This order concerns only the defense motion to change venue for trial. Another order will be forthcoming regarding the other motions heard on November 26, 2014.

In connection with the defense motion to change venue, the Court received and has reviewed the exhibits submitted, including a survey performed by the National Jury Project, discs containing numerous news reports about this case, and a map of

Minnesota showing the media broadcast areas. The Court has also received

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D. J. OEN M. RENN, Court Administrator  
DAKOTA COUNTY

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reviewed the grand jury transcript in this case as well as the memoranda of both parties, including attachments. Based upon that review as well as the arguments of counsel and review of the relevant law, the Court makes the following:

### **FINDINGS OF FACT**

1. Defendant is charged by indictment with Murder in the First Degree of a peace officer in connection with the July 30, 2014 shooting and death of Mendota Heights Police Officer Scott Patrick. He is also charged with three counts of Attempted Murder in the First Degree for allegedly shooting at three Saint Paul Police Officers while officers were attempting to apprehend him about 8 hours after the shooting of Officer Patrick. Defendant is also charged with being a felon in possession of a firearm. The acts are alleged to have occurred in Dakota and Ramsey Counties, Minnesota, on July 30, 2014.
2. This case has generated a large amount of publicity in and around Dakota and Ramsey Counties. That publicity includes television, radio, print, internet, and social media coverage.
3. There has been widespread media coverage of Defendant's alleged statement set forth in the Complaint, "Just so you know, I hate cops and I'm guilty." Per Mr. Prokopowicz's representation at the November 26 hearing, the State has not yet decided as to whether they will seek to introduce that statement at trial.
4. It has been reported in the media that Defendant admitted he killed Officer Patrick. The only statement to which the Court is privy which could be construed as an admission is the statement referenced above. There apparently was a statement of Defendant which was taken on July 31, 2014, but the Court is not

privity to the content or circumstances of that statement. At the November 26 hearing, Mr. Prokopowicz informed the Court that the July 31 statement will not be admitted at trial.

5. Defendant's prior criminal record has been widely disseminated in the media, as has been the fact that he was on supervised release from the Department of Corrections at the time of the shootings in this case.
6. The defense commissioned a public opinion survey from Diane Wiley, President of the National Jury Project. 265 Dakota County residents were surveyed. 91% of the residents surveyed knew of Officer Patrick's death. 24% felt they had some personal connection to the case. 83% believed Defendant is guilty or "probably" guilty. 31% said that Defendant had made some type of admission in the case.
7. Officer Patrick's death has impacted countless people in the Dakota County community from which a Dakota County jury would be summoned, and the wound is still fresh. Officer Patrick's funeral and procession were broadcast. The Governor ordered that flags be flown at half-mast. There have been fundraisers and memorial funds established for his family. There is or was a memorial for Officer Patrick at the scene of the shooting.
8. At the Court's request, certain counties have been contacted by the First Judicial District Court Administrator to inquire into the availability and ability to accommodate the particular needs of this trial. Stearns County has the ability to accommodate this trial on the dates that have previously been scheduled.

## **CONCLUSIONS OF LAW**

1. Defendant has the constitutional right to due process of law and a fair trial. Minn. R. Crim. P. 25.02, subd. 3 requires that the Court change venue of a trial whenever “potentially prejudicial material creates a reasonable likelihood that a fair trial cannot be had. Actual prejudice need not be shown.” *Id.*
2. The extensive media coverage of this case, including the statement which Defendant allegedly made that he “hates cops” and is “guilty” creates a “reasonable likelihood” that a fair trial cannot be had in Dakota County. The Court knows that the good citizens of Dakota County would do their utmost, if summoned, to sit fairly and impartially as jurors on this case. However, given the results of the survey and review of exhibits presented to the Court, as well as the Court’s own observations, there is a reasonable likelihood that it would be difficult if not nearly impossible to timely impanel a Dakota County jury that could fairly and impartially sit on this case.

## **ORDER**

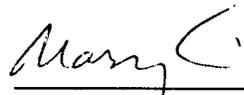
1. Venue for the jury trial of this case shall be transferred to Stearns County.
2. Jury selection shall commence at the Stearns County Courthouse, Saint Cloud, on January 12, 2015 at 9:00 a.m. before the undersigned.
3. Presuming a jury has been impaneled, trial shall commence at the Stearns County Courthouse, Saint Cloud, on January 20, 2015 at 9:00 a.m. before the undersigned.
4. The pretrial hearing in this case remains scheduled for 9:00 a.m. on December 16, 2014 at the Dakota County Judicial Center, Hastings.

5. An order will be forthcoming at a later date regarding the remainder of the issues raised by the parties at the November 26, 2014 hearing.

**IT IS SO ORDERED.**

Dated: December 2, 2014  
File No.19CR-14-4677

**BY THE COURT:**



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Mary J. Theisen  
Judge of District Court