

FILED

February 23, 2021

**OFFICE OF
APPELLATE COURTS**

**STATE OF MINNESOTA
IN COURT OF APPEALS**

State of Minnesota,

Appellant,

vs.

Derek Michael Chauvin,

Respondent.

ORDER

#A21-0201

State of Minnesota,

Appellant,

vs.

J. Alexander Kueng,

Respondent,

Thomas Kiernan Lane,

Respondent,

Tou Thao,

Respondent.

#A21-0202

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and Gaitas,
Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE
FOLLOWING REASONS:**

On February 12, 2021, the state filed these pretrial appeals pursuant to Minn. R. Crim. P. 28.04, subd. 1(1), from the district court's February 11, 2021 order denying the state's motion to reinstate the charge of third-degree murder against respondent Chauvin and to amend the complaints against the other respondents to charge third-degree murder. On February 16, 2021, the state filed a motion to consolidate these appeals and to expedite their consideration by this court. On February 19, 2021, respondents in appeal A21-0202 filed a motion to dismiss that appeal. On February 22, 2021, the state filed and served a brief in these appeals.

Related appeals in separate actions may be consolidated by the appellate court's order on its own motion or upon motion of a party. Minn. R. Civ. App. P. 103.02, subd. 3. The state argues that consolidation of these appeals is appropriate and in the interests of judicial economy because all respondents are charged in the same incident and their appeals arise from a single order of the district court addressing substantially the same issue—whether the state should be permitted to charge the respondents with third-degree murder.

A case may be expedited for consideration based upon a showing of good cause, and this court may suspend the application of the rules governing an appeal in the interests of expediting any matter before it. Minn. App. Spec. R. Prac. 1; Minn. R. Civ. App. P. 102. The state argues that there is good cause to warrant expediting these appeals because respondent Chauvin's trial is set to begin on March 8, 2021, and “[e]xpediting this appeal

is therefore necessary to ensure that the trial in this case proceeds promptly.” Because of the imminence of respondent Chauvin’s trial, there is good cause to expedite consideration of the state’s appeal in his case (A21-0201).

According to district court records, the remaining respondents are currently scheduled for a joint trial to begin on August 23, 2021. Because the trial of the other respondents is not imminent, the same good cause does not exist. In addition, the respondents in appeal A21-0202 raise an issue in their motion to dismiss that appeal that is distinct from the issue presented in appeal A21-0201. Consequently, consolidation of these appeals may impair this court’s ability to address appeal A21-0201 expeditiously.

IT IS HEREBY ORDERED:

1. The state’s motion to consolidate appeals A21-0201 and A21-0202 is denied.
2. The state’s motion for expedited consideration of appeal A21-0201 is granted.
3. The state’s motion for expedited consideration of appeal A21-0202 is denied.
4. Respondent Chauvin shall e-serve and e-file a brief in appeal A21-0201 by 4:00 p.m. on Friday, February 26, 2021.
5. Oral argument in appeal A21-0201 will be scheduled for Monday, March 1, 2021, at 1:00 p.m. Counsel will receive additional instructions for joining the ZoomGov session.
6. Briefing in A21-0202 shall proceed as provided for in Minn. R. Crim. P. 28.04, subd. 2(3). Oral argument will be scheduled upon completion of briefing.

7. The motion to dismiss appeal A21-0202 will be addressed by a separate order of this court.

Dated: February 23, 2021

BY THE COURT



Michelle A. Larkin
Presiding Judge