

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Court File No. 27-CR-20-12646

State of Minnesota,

Plaintiff,

vs.

**DEFENDANT'S MOTION
FOR ATTORNEY'S FEES
PURSUANT TO**

Derek Michael Chauvin,

MINN. R. CRIM. P. 29.04, SUBD. 10(3)

Defendant.

**TO: THE ABOVE-NAMED COURT; AND THE HONORABLE PETER A. CAHILL,
JUDGE OF HENNEPIN COUNTY DISTRICT COURT.**

NOTICE OF MOTION

PLEASE TAKE NOTICE that the Defendant, Derek Michael Chauvin, through his attorney Eric J. Nelson, Halberg Criminal Defense, hereby moves this Court for the following relief:

MOTION

1. For an order granting reasonable attorney's fees, pursuant to Minn. R. Crim. P. 29.04, subd. 10(3) and Minn. Stat. § 611.27, subd. 16. On February 12, 2021, the State brought a pretrial appeal from this Court's February 11, 2021, Order denying the State's motion to add or reinstate a charge of third-degree murder against the Defendant. On February 14, 2021, undersigned counsel filed a motion to dismiss the appeal, which was assigned case no. A21-0201, and began to prepare a brief in response to State's brief, which was filed on February 22, 2021. On February 23, 2021, the court of appeals denied Mr. Chauvin's motion to dismiss. Counsel filed his brief on Mr. Chauvin's behalf on February 26, 2021, and argued the matter before the court of appeals on March 1, 2021. On the same day, the supreme court granted review in the case of *State v. Noor*. On the basis of the court's decision to review *Noor*, counsel filed a second motion to dismiss the State's pretrial

appeal. On March 5, 2021, the court of appeals remanded the matter to the district court. At that time, counsel began drafting a petition for further review to the Minnesota Supreme Court. On March 8, 2021, counsel for Mr. Chauvin filed the PFR. On March 9, 2021, the State filed a response to the PFR. On March 10, 2021, the supreme court declined to review the court of appeal decision. On April 20, 2021, a jury convicted Mr. Chauvin of second-degree, unintentional murder. On June 25, 2021, this Court committed Mr. Chauvin to the Commissioner of Corrections for a period of 270 months. The matters at the base of the State's pretrial appeal are now final.

Pursuant to Minn. R. Crim. P. 29.04, subd. 10, the prosecuting authority is responsible for the defendant's reasonable attorney's fees in a pretrial appeal. The chief judge of each district in Minnesota sets the rate at which compensation is awarded. Minn. Stat. § 611.27, subd. 16. On January 12, 2021, the chief judge of the Fourth Judicial District, the Honorable Toddrick Barnette, issued a standing order setting an hourly rate of \$125.00 per hour, pursuant to section 611.27.

The undersigned respectfully requests an order directing the State, as the "governmental unit responsible for the prosecution" to reimburse undersigned counsel in the amount of \$4,031.25 for the 32.25 hours spent on this pretrial appeal. Minn. Stat. § 611.27, subd. 16.

At the hourly rate established in the Fourth Judicial District, full compensation for counsel's work on this pretrial appeal would be \$4,031.25. (Aff. of Eric J. Nelson). The rate of \$125.00 per hour is far less than counsel's usual billing rate. The request for payment in the amount of \$4,031.25 is, therefore, fair and reasonable under the circumstances.

2. Any other relief deemed fair and equitable by the Court.

Respectfully submitted,

HALBERG CRIMINAL DEFENSE

Dated: August 9, 2021

/s/ Eric J. Nelson

Eric J. Nelson

Attorney License No. 308808

Attorney for Defendant

7900 Xerxes Avenue S., Ste. 1700

Bloomington, MN 55431

Phone: (612) 333-3673

AFFIDAVIT OF ERIC J. NELSON

State of Minnesota)
) ss:
County of Hennepin)

Eric J. Nelson, being first duly sworn, states and deposes under oath as follows:

1. I am a lawyer licensed to practice law in Minnesota, Wisconsin, the United States District Court for the District of Minnesota, as well as various appellate courts.
2. I represented petitioner/respondent in the petition for review of the pretrial appeal brought by the state in *State v. Chauvin* in appellate case number A21-0201.
3. In total, I spent 32.25 hours researching, writing, and reviewing the petition for further review in this matter. A copy of my time records is attached.
4. I understand that the chief judge of the Fourth Judicial District has set the hourly rate for attorney fees in state pretrial appeals at \$125.00 pursuant to Minnesota Statutes, section 611.27, subd. 16(b).
5. This affidavit is submitted in support of my request for attorney fees in the amount of \$4,031.25, under Minnesota Statutes, section 611.27, subd. 16, and Minn. R. Crim. P. 29.04, subd. 10(3).

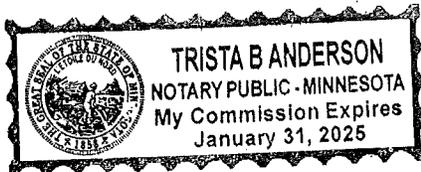
Further affiant says not.

Signed and sworn to before me
this 19 day of August, 2021.



Eric J. Nelson


Notary Public



DATE	TIME (Hours)	NOTES
3/5/21	4.5	review COA order; begin researching for PFR
3/6/21	9	Researching and writing PFR
3/7/21	9.5	drafting PFR
3/8/21	7.5	Finish writing; review and file PFR
3/9/21	1.75	review state response to PFR; confer with client

Total Hours

32.25 Total Due at 125/hr

\$4,031.25