

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. 28.04, SUBD. 2(6)**

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. 28.04, subd. 2(6) and Minn. Stat. § 611.27, subd. 16. On January 28, 2021, the State brought a pretrial appeal from this Court's January 11, 2021, Order denying the State's motion to reconsider. On January 30, 2021, undersigned counsel filed a motion to dismiss the appeal, which was assigned case no. A21-0133, and began to prepare a brief in response to State's brief, which was filed on January 29, 2021. On February 3, 2021, the court of appeals consolidated Mr. Chauvin's case with those of his codefendants and ordered the case expedited. On February 12, 2021, the court of appeals dismissed the State's interlocutory appeal in A21-0133, and the matter proceeded to trial. 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 \$5,000.00 for the 43.25 hours spent on this pretrial appeal. Minn. Stat. § 611.27, subd. 16. Under section 611.27, subd. 16, the maximum amount of attorney's fees that will be paid for a pretrial appeal is \$5,000.

At the hourly rate established in the Fourth Judicial District, full compensation for counsel's work on this pretrial appeal would be \$5,406.25. (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 of the statutory maximum reimbursement of \$5,000.00 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, 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                 )

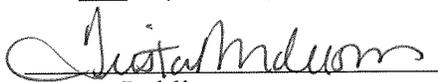
Eric J. Nelson, being first duly sworn, states and deposes under oath as follows:

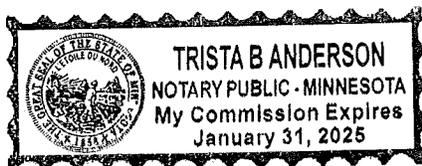
1. I am a lawyer licensed to practice law in Minnesota, Wisconsin, the United States District Court for the District of Minnesota, as well as various appellate courts.
2. I represented respondent in the pretrial appeal brought by the state in *State v. Chauvin* in appellate case number A21-0133.
3. In total, I spent 43.25 hours researching, writing, responding, and opposing the State's motion in this pretrial appeal. 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, subdivision 16(b).
5. This affidavit is submitted in support of my request for attorney fees in the amount of \$5,000.00, the statutory maximum allowed under Minnesota Statutes, section 611.27 subdivision 16(b).

Further affiant says not.

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

  
Eric J. Nelson

  
Notary Public



<b>DATE</b>	<b>TIME (Hours)</b>	<b>NOTES</b>
1/27/21	2.25	phone calls with staff, co-counsel; review information re: pending appeal
1/28/21	4.5	phone calls with staff; begin research
1/29/21	7	review state appeal materials; research/write motion to dismiss appeal
1/30/21	0.75	prepare, file and serve motion to dismiss appeal
2/1/21	6.25	Research reply brief
2/2/21	6.75	research, begin drafting reply brief; review state's motions
2/3/21	7.25	research, drafting reply brief; review state's response to motion to dismiss
2/4/21	8.5	draft reply brief; confer with staff

Total Hours

43.25 **Total Due at 125/hr****\$5,406.25**