

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Court File No.: 27-CR-20-12646

State of Minnesota,

Plaintiff,

STATE'S MOTIONS *IN LIMINE*

v.

Derek Michael Chauvin,

Defendant.

TO: The Honorable Peter Cahill, Judge of District Court, and counsel for Defendant; Eric J. Nelson, Halberg Criminal Defense, 7900 Xerxes Avenue South, Suite 1700, Bloomington, MN 55431.

NOTICE OF MOTIONS

PLEASE TAKE NOTICE that on March 8, 2021, or as soon thereafter as counsel may be heard, the State of Minnesota will bring the following motions in limine:

MOTIONS

1. The State moves this Court to prohibit Defendant from impeaching any witness with a statement from a third-party summary—such as a report prepared by the Bureau of Criminal Apprehension (BCA) or Federal Bureau of Investigation (FBI)—if the witness does not adopt that document as his or her prior statement.
2. The State moves this Court to prevent any expert witness from testifying regarding the opinion of any other expert he or she consulted who is not testifying at trial. In particular, the State moves to exclude any statement by a testifying expert witness that a nontestifying expert reviewed, supported, or contributed to the testifying expert's opinion, analysis, or

- conclusions, or that a nontestifying expert agreed with the testifying expert's opinion, analysis, or conclusions.
3. The State moves this Court to prohibit Defendant from arguing at trial (i) that the State must show that he intended to kill George Floyd or intended to cause him bodily harm; or (2) that the State must show "but for" causation in order to establish the causation element of the charged offenses. The State also respectfully requests that the Court prohibit Defendant from presenting evidence that specifically addresses whether these incorrect legal standards have been satisfied.
 4. The State moves this Court to exclude any argument, evidence, or testimony regarding the Minneapolis Police Department's (MPD's) decisionmaking process in terminating Chauvin's employment as an MPD officer. The State also moves the Court to exclude any argument, evidence, or testimony suggesting that MPD may face civil liability stemming from George Floyd's death. To the extent the Court determines that evidence on these topics may be admissible for the limited purpose of attempting to show purported bias on the part of testifying witnesses, the State respectfully requests that the Court properly limit evidence on such extraneous matters.
 5. The State moves this Court to exclude any argument or evidence regarding changes that were made after May 25, 2020 to the MPD Policy and Procedure Manual or any other MPD training documents.
 6. The State moves this Court to prohibit Defendant from introducing into evidence the documents labeled Bates 002566 through 002606—a series of slides entitled "Excited Delirium Syndrome"—unless Defendant can lay a proper foundation for their admission.

7. The State moves this Court to prohibit Defendant from relying on unauthenticated transcripts at trial, and from admitting any transcripts into evidence absent the State's agreement.
8. The State moves this Court to prohibit Defendant's counsel from introducing, through direct or cross-examination and during opening statement and closing argument, any hearsay statement of Defendant unless the statement complies with a hearsay exception. Minn. R. Evid. 801-807.
9. The State moves this Court to prohibit Defendant's counsel from commenting at any time during the trial or during closing arguments on the failure or alleged failure of the prosecution to call a witness or introduce evidence equally available to either party. *See* Minn. R. Evid. 801; *State v. Taylor*, 258 N.W.2d 615, 622 (Minn. 1977).
10. The State moves this Court to prohibit Defendant's counsel from commenting at any time during the trial or during closing arguments on the failure or alleged failure of the prosecution to call a witness or introduce evidence equally available to either party. *State v. Beranardi*, 678 N.W.2d 465, 471 (Minn. App. 2004) (citing *State v. Thomas*, 232 N.W.2d 766, 768 (Minn. 1975)).
11. The State moves this Court to prohibit admission of any testimony or evidence regarding any alleged bad acts committed or allegedly committed by any witness without prior notice to the State; giving the state an opportunity to be heard on and litigate its admissibility; and a prior Court ruling on its admissibility. *See* Minn. R. Evid. 401-402; 403; 404.
12. The State moves this Court to prohibit Defendant's counsel from attempting to ask any witness about any crime, act of dishonesty, or conviction related to that or another witness

without prior notice to the State; giving the state an opportunity to be heard on and litigate its admissibility; and a prior court ruling on its admissibility. *See* Minn. R. Evid. 608-09.

These motions are based on the citations provided, all the files, records, and proceedings herein, and for motions 1 through 7 the State's Memorandum of Law In Support of Motions *In Limine* filed herewith.

Dated: February 8, 2021

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Matthew Frank
MATTHEW FRANK
Assistant Attorney General
Atty. Reg. No. 021940X

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1448 (Voice)
(651) 297-4348 (Fax)
matthew.frank@ag.state.mn.us

NEAL KUMAR KATYAL (*pro hac vice*)
SUNDEEP IYER (*pro hac vice*)
DANIELLE DESAULNIERS STEMPEL
(*pro hac vice*)
Special Attorneys for the State of Minnesota
Hogan Lovells U.S. LLP
555 Thirteenth Street, N.W.
Washington, D.C. 20004
(202) 637-5600 (Voice)
neal.katyal@hoganlovells.com

ATTORNEYS FOR PLAINTIFF