

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

**DEFENDANT’S**  
**MEMORANDUM OF**  
**LAW IN SUPPORT OF**  
**MOTIONS IN LIMINE #38**  
**AND #39**

PLAINTIFF,

V.

TOU THAO,

DEFENDANT.

COURT FILE NO. 27-CR-20-12949

TO: THE HONORABLE PETER A. CAHILL, JUDGE OF DISTRICT COURT, AND  
MR. MATTHEW G. FRANK, ASSISTANT ATTORNEY GENERAL

On May 13, 2022, Mr. Thao filed Defendant’s Motions in Limine. Index #554. Mr. Thao respectfully moved the Court for two orders regarding witness clothing that would improperly persuade, confuse, or otherwise bias the jury. *See Id. – Motion in Limine 38* and 39.

**Motion in Limine 38**

First, Mr. Thao respectfully moved this Court for “[a]n order barring any prosecution witness from wearing a uniform unless they are testifying in the capacity of that uniform. Minn. R. Evid. 403.” Index #554, *Motion in Limine 39*.

Genevieve Hansen testified wore a firefighter uniform while testifying in *State v. Chauvin* when she was not testifying as a firefighter, but as a lay/eyewitness. Her testimony

was allowed in the related federal case, but with her wearing layman’s clothing. In this case, requiring Genevieve Hansen to wear layman’s clothing will provide no substantial prejudice to the State. However, having a witness testify under oath in a uniform – such as a police or firefighter uniform – when they are not testifying as the role of the uniform is prejudicial to Mr. Thao in that it confuses to the jury and improperly persuades jurors as to the trustworthiness of a witness based upon their occupation. Genevieve Hansen will not be testifying in the capacity of a firefighter in the above-captioned case, but as a bystander witness. As such, her uniform is irrelevant, confuses the jury, and improperly persuades the jurors as to her trustworthiness.

### **Motion in Limine 39**

Secondly, Mr. Thao respectfully moved this Court for “[a]n order barring any prosecution witness from wearing an outfit with signage or writing on it. Specifically, from precluding Donald Williams from wearing an undershirt with visible writing on it as he did in *State v. Chauvin*.” Index #554, *Motion in Limine 39*.

In *State v. Chauvin*, Mr. Donald Williams – a potential witness in this case – wore a black t-shirt with the words Black Excellence underneath his white dress shirt.<sup>1</sup> The t-shirt was clearly seen by the public and the jurors. *Id.* An alternate juror’s notes were released to the media after the trial and contained notes of the t shirt: “I thought I could see letters underneath his shirt on a T-Shirt, but wasn’t sure Possible “Black lives matter”.<sup>2</sup> If

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<sup>1</sup> See Annie Ayahausca (@six\_sextillion), TWITTER (Mar. 30, 2021, 9:57 AM), [https://twitter.com/six\\_sextillion/status/1376911424803454982](https://twitter.com/six_sextillion/status/1376911424803454982) (tweeting in part “And his undershirt clearly reads BLACK EXCELLENCE #DerekChauvinTrial).

<sup>2</sup> Lou Raguse (@LouRaguse), TWITTER (Apr. 22, 2021, 2:54 PM), <https://twitter.com/LouRaguse/status/1385321079309230088>.

Mr. Williams – or any other witness – wore a similar shirt in this case it would improperly confuse the jury as to the issues of the case and attempt to improperly persuade the jury.

Mr. Thao respectfully requests this Court order Government witnesses not wear clothing that improperly confuses or persuades the jury.

Dated: This 20<sup>th</sup> day of May, 2022

/s/ Robert M. Paule  
Robert M. Paule (#203877)  
Robert M. Paule, P.A.  
920 Second Avenue South  
Suite 975  
Minneapolis, MN 55402  
T: (612) 332-1733  
F: (612) 332-9951

Natalie R. Paule (#0401590)  
Paule Law P.L.L.C.  
101 East Fifth Street  
Suite 1500  
St. Paul, MN 55101  
T: (612) 440-3404  
nrp@paulelaw.com

Attorneys for Tou Thao