

1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

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4 State of Minnesota, )

5 Plaintiff, ) First Appearance

6 vs. ) Case No. 27-CR-20-12951

7 Thomas Lane, )

8 Defendant.)

9 -----

10 The above-entitled matter came on for hearing before  
11 the Honorable Paul Scoggin, one of the judges of the  
12 above-named court, in Courtroom 141 of the Public Safety  
13 Facility, city of Minneapolis, county of Hennepin, state  
14 of Minnesota, on the 4th day of June, 2020, at 1:11 p.m.

14 APPEARANCES

15 MATTHEW FRANK, Assistant Attorney General, appeared  
16 for and on behalf of the plaintiff;

17 EARL GRAY, ESQ., Attorney at Law, appeared for and on  
18 behalf of the defendant;

19 THOMAS LANE, Defendant, was personally present.  
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21  
22  
23  
24

25 REPORTED BY: Lisa Iaria Knisley, Official Court Reporter

1 P R O C E E D I N G S

2 THE CLERK: Your Honor, calling line 2, Thomas  
3 Lane, here on a first appearance, needs ID, and he has  
4 private counsel present.

5 THE COURT: Appearances, please.

6 MR. FRANK: Good afternoon, Your Honor,  
7 Matthew Frank, assistant attorney general, on behalf  
8 of the State.

9 MR. GRAY: Earl Gray, representing Thomas  
10 Lane.

11 THE COURT: Good afternoon to both counsel.  
12 Good afternoon, Mr. Lane.

13 Mr. Gray, you are, as an officer of the court,  
14 asserting to me that the information contained in  
15 district court files is true and correct for  
16 identification?

17 MR. GRAY: Yes.

18 THE COURT: All right. With that, do you  
19 acknowledge the receipt of the complaint and waive its  
20 reading?

21 MR. GRAY: Excuse me?

22 THE COURT: Acknowledge the receipt of the  
23 complaint and waive its reading?

24 MR. GRAY: Yes.

25 THE COURT: Mr. Frank.

1           MR. FRANK: Thank you, Your Honor. As I've  
2 indicated already before, obviously, this is a very  
3 serious matter involving a very tragic death and these  
4 are very serious charges arising out of that. And,  
5 obviously, it's a fairly well-known -- very well-known  
6 matter that has really touched the community and  
7 provides, therefore, significant incentive to flee and  
8 to not be available to proceed with the charges in  
9 this matter.

10           We would ask the Court, based on those dual  
11 concerns, to set bail, unconditional, in the amount of  
12 one million dollars, and unconditional -- I'm sorry --  
13 with conditions, \$750,000. We would ask the Court  
14 that he be ordered to waive extradition; that he turn  
15 over any handguns or firearms; if he does have a  
16 firearm permit, that that be surrendered; that he have  
17 no contact with the victim's family; and that he not  
18 work in a law enforcement or security capacity; and  
19 then all the other standard conditions, Your Honor.

20           THE COURT: Mr. Gray.

21           MR. GRAY: Your Honor, as I understand bail,  
22 it's to reasonably ensure the appearance my client and  
23 also to protect the community, and what you look at is  
24 a person's ties to the community and another issue you  
25 look at is the strength of the case.

1           My client grew up in St. Paul. He graduated  
2           with a sociology degree from the University of  
3           Minnesota. He's married. He -- his family owns a  
4           home in St. Paul, and he has worked as a juvenile  
5           counselor at two or three different juvenile places in  
6           the Twin Cities. I think he's -- I believe he's  
7           37 years old.

8           He went through the training of the police  
9           department in Minneapolis here and succeeded in  
10          becoming a police officer. Not only did he become a  
11          police officer, but he was the Community Service Award  
12          where he -- his hand was shook by Mr. Frey and the  
13          chief. He got that award because he was a volunteer  
14          on numerous other programs to help children in the  
15          community. That's his background.

16          He has no prior criminal record and with  
17          respect to turning -- not appearing in court,  
18          immediately after this arrest of the alleged victim,  
19          my client gave a statement to a sergeant -- two  
20          sergeants. It's on the video. He and Mr. Kueng both  
21          gave statements as to what happened. After that, my  
22          client, with my representation, gave a lengthy  
23          statement to the Bureau of Criminal Apprehension.

24          As the others, he was called -- or I was  
25          called to be told that there's a warrant for his

1           arrest. He immediately came with me and turned  
2           himself in. He did everything -- he gave a statement;  
3           he turned himself in -- that was expected of somebody  
4           accused of a crime. In addition to that -- well, he's  
5           not a danger to the community. I don't think that's  
6           been even alleged by the State. What they're saying  
7           is that he might leave.

8                     But in addition to that, as far as leaving, a  
9           defendant and a defense lawyer looks at the strength  
10          of the case. In fact, it's in the rules. One of the  
11          issues is the strength of the case. In this case, my  
12          client is charged with aiding and abetting  
13          second-degree murder, unintentional, while committing  
14          a felony. Intentionally aiding and abetting, you have  
15          to have the willful intent. The other count is  
16          Count 2 and that's culpable negligence, where he,  
17          again, intentionally -- because it's aiding and  
18          abetting, you have to have the criminal intent to  
19          assist the other individual, Chauvin or whatever his  
20          name is, to commit that crime.

21                    Well, let's look at what happened here on the  
22          video. My client is down by the bottom of this fellow  
23          laying on the ground, holding his feet. On the video,  
24          twice he says, "Shall we roll him over?" The  
25          experienced officer, 20 years -- my client's been on

1 the force for four days as a policeman. He says,  
2 "Should we roll him over?"

3 You hear, specifically on the video, "No, he's  
4 good where he's at. We're waiting for an ambulance."  
5 He said that twice.

6 Another time he said, "I think he suffered  
7 from delirium," wanting to roll him over. This fellow  
8 that was in the front -- and he's in the back -- the  
9 fellow in the front is a training officer. They're  
10 required to call him "sir." He has 20 years'  
11 experience. What is my client supposed to do but to  
12 follow what the training officer said? Is that aiding  
13 and abetting a crime?

14 What happens next? The man is put in the  
15 ambulance. My client -- nobody else -- my client gets  
16 in the ambulance and performs CPR for a lengthy period  
17 of time trying to revive this individual, and he was  
18 unsuccessful. To me, Your Honor, I think you have to  
19 look at the strength of the case along with these  
20 other issues, particularly when the bail is this --  
21 when the bail is this high where -- and the trial  
22 probably won't happen for a long time and the bail is  
23 this high where this man, doing everything he thought  
24 he was supposed to do as a four-day police officer, he  
25 did. Not only that, he goes in the ambulance and

1           tries to revive the guy, the CPR. Is that probable  
2           cause for aiding and abetting a felony or culpable  
3           negligence, especially when you put into that factor  
4           reasonable force?

5           You didn't have any evidence in this complaint  
6           that my client hit this man, that he assaulted him,  
7           that he did anything like that. He was down holding  
8           his feet so he wouldn't kick. The strength of the  
9           case, Your Honor, is, in my opinion, extremely weak.  
10          There just isn't an aiding and abetting for my client,  
11          who was asking the 20-year veteran, "Shall we roll him  
12          over? He's suffering from a delirium of some sort,"  
13          and then going into the ambulance and trying to revive  
14          him.

15          The million-dollar bail means he has to sit in  
16          jail for probably over a year to go to trial because  
17          these are charged separately. Obviously, the main  
18          person will be tried first and my client will probably  
19          be tried last, or even if he's tried second or third,  
20          he's going be sitting in jail for over a year. And,  
21          Judge, bail is not meant to punish somebody or it's  
22          not meant to kowtow to the media or newspapers or  
23          anything of that sort. Bail is to reasonably assure  
24          the appearance of my client -- and that's a given --  
25          and to protect society. And he's never committed a

1 crime in his life. This -- to him, he thought he was  
2 doing what he was supposed to do as a four-day cop.  
3 How in the world can you justify a million-dollar  
4 bail, making an ex-cop for four days sit in jail for  
5 over a year? because he's not a person of means, been  
6 married for two years, spent a lot of money trying to  
7 become a cop.

8 In any event, Your Honor, I'd ask that he be  
9 given a reasonable bail. His family will attempt to  
10 raise it, and the reasonable bail would be 200,000 and  
11 50,000 on conditions. They could come up with it. I  
12 just -- it -- even read the complaint, along with  
13 Chauvin's complaint. It's right in there that he did  
14 this stuff. "Shall we roll him over?" Where's the  
15 aiding and abetting? You know the criminal law,  
16 Judge. Anyway, I'd ask that because of the strength  
17 of the case, mainly, and his ties to the community and  
18 his lack of danger to use bail as it should be to  
19 reasonably assure his appearance and protect society  
20 and not something else because people are up in arms.  
21 Thank you.

22 THE COURT: Mr. Frank, as to the sub rosa  
23 argument, that is, the strength of the case as it is  
24 motivation to flee.

25 MR. FRANK: Your Honor, we recognize that he

1 did make some statements. He -- this defendant held  
2 down Mr. Floyd's feet and obviously assisted Mr.  
3 Chauvin in holding him down in that position. Yes, he  
4 expressed some knowledge, knowledge that he had gained  
5 from the initial contact with Mr. Floyd, which  
6 included at one point sitting Mr. Floyd down when he  
7 became calm. And yet they continued to try and get  
8 Mr. Floyd, in the agitated state, into the car, and  
9 when that didn't work, they placed him prone on the  
10 ground, and three police officers, who have had  
11 training to deal with this type of situation, held him  
12 down. And we recognize the statements that this  
13 defendant made but beyond that, did nothing but  
14 continue to held him down and started CPR, obviously,  
15 too late. So I submit to the Court that as stated and  
16 set forth in the complaint, there is a case here and  
17 it is troubling, but that is the roll of an aider and  
18 abettor. That is what he did here.

19 MR. GRAY: But the aider and abettor has to  
20 willfully participate, Your Honor. It has to be  
21 intentional, and all we're arguing here is bail.

22 THE COURT: I assume from what I'm hearing,  
23 Mr. Gray, that you're going to want to set a PC  
24 motion.

25 MR. GRAY: I do.

1 THE COURT: You want to set it sooner than the  
2 29th?

3 MR. GRAY: Well, if the bail remains at a  
4 million dollars. But we don't have any discovery. I  
5 won't have it by then. What I'm saying is accurate.  
6 He's doesn't deny that the guy did ask twice, "Shall  
7 we roll him over?"

8 And Chauvin said, "No, we're keeping him as he  
9 is."

10 He also said, "I think he's suffering from  
11 delirium." He goes into the ambulance, Judge, and as  
12 far as pulling him out of the squad car, he wasn't  
13 pulled out of the squad car. This man asserted  
14 himself and flew out of the squad car and he resisted  
15 being handcuffed. It's on the video. I just -- I  
16 guess -- the man's four days on the job, Judge. How  
17 can he possibly do anything but what he did? What was  
18 he supposed to do? Get off the feet of the guy, go up  
19 and grab Mr. Chauvin and throw him off? It's just  
20 unreasonable to hold bail at this high for this man.  
21 He's a good person, Judge. I know him.

22 THE COURT: Madam Clerk, I am going to make a  
23 bail ruling today, but I would like MNCIS to reflect  
24 that I'm expressly reserving, which creates a separate  
25 standard for a bail review. I'm expressly reserving

1 pending a PC motion because I think it is pretty tied  
2 up in the traditional bail analysis; that is, the  
3 strength of the case and the motivation to flee are  
4 directly related to each other.

5 I am going to set bail at a million dollars  
6 today and 750,000 with conditions, but with that  
7 express reservation given the argument that I've heard  
8 today.

9 MR. GRAY: Well, Your Honor, will the probable  
10 cause hearing be in front of you, then?

11 THE COURT: Not necessarily. As you know,  
12 everything is unblocked right now so as soon as these  
13 hearings are done, the chief judge is going to make  
14 the decision who the case goes to.

15 MR. GRAY: Okay. So at that motion, even if I  
16 don't win the probable cause --

17 THE COURT: I've expressly reserved.

18 MR. GRAY: Okay. Thank you.

19 THE COURT: Okay. Sir, I'm setting  
20 seven-fifty -- a million dollars with no conditions,  
21 seven-fifty with conditions. The conditions be that  
22 you obey all laws; that you make all your court  
23 appearances -- right now your next court appearance is  
24 set for the 29th of June at 9:00 in the courthouse  
25 across the street -- that you not have direct or

1 indirect contact with the victim's family. Your  
2 release, if you post, will be supervised. You may not  
3 be in possession of firearms, explosives, or  
4 ammunition. You, if you post, must sign a waiver of  
5 extradition, surrender any permit to carry, and not  
6 work in security or police work.

7 MR. GRAY: One other thing, Judge.

8 THE COURT: Yes.

9 MR. GRAY: Would the June 29th date be the  
10 probable cause hearing where I can -- it's called a  
11 *Florence* hearing. Thank you. Would that be on  
12 June 29th, Judge, or would I get a new date for that?

13 THE COURT: So if you file a motion, I don't  
14 see any reason it couldn't be argued on the 29th.  
15 Obviously, I'll let the parties -- I know you  
16 mentioned what the status of discovery is at that  
17 point, and I certainly want to respect that. And I  
18 don't know what the status of the completion of the  
19 investigation is so I'll let the parties work that  
20 out, but I've got no objection to that being heard,  
21 you know, with a motion being filed.

22 MR. GRAY: Sure. Thank you.

23 THE COURT: And, again, it's not going to be  
24 -- not necessarily me. It will be whoever the chief  
25 judge assigns it to.

1 MR. GRAY: So I have to make that argument all  
2 again?

3 THE COURT: Well --

4 MR. GRAY: I understand, Judge. Thank you.

5 THE COURT: All right. Thank you. The record  
6 should reflect that I am countersigning a signed  
7 waiver of extradition for this case.

8 MR. GRAY: Thank you, Judge.

9 THE COURT: Thank you.

10 (The proceedings were concluded at 1:29 p.m.)

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1 STATE OF MINNESOTA )

2 )

3 COUNTY OF HENNEPIN )

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5 REPORTER'S CERTIFICATE

6 I, Lisa Iaria Knisley, Official Court  
7 Reporter, do hereby certify that I reported the  
8 foregoing proceedings as a Remote Stenographic Court  
9 Reporter via CourtSmart and thereafter transcribed the  
10 same, as evidenced by the foregoing transcript, and  
11 that the same is a true and correct transcription to  
12 the best of my ability of said matter heard before the  
13 Honorable Paul Scoggin, one of the judges of the  
14 Fourth Judicial District, city of Minneapolis, county  
15 of Hennepin, state of Minnesota, on the 4th day of  
16 June, 2020.

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18  
19  
20  
21  
22 Dated and signed this 4th day of June, 2020.

23  
24 /s/ Lisa Iaria Knisley  
25 Lisa Iaria Knisley  
Official Court Reporter