

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Court File No.: 27-CR-20-12953

Plaintiff,

vs.

**NOTICE OF MOTION AND MOTION
FOR DISCLOSURE**

J. Alexander Kueng,

Defendant.

TO: The State of Minnesota, the Prosecuting Attorneys in the above-entitled case.

PLEASE TAKE NOTICE that on September 11, 2020 at 9:00 a.m. or as soon thereafter as counsel may be heard, before the Hon. Peter Cahill, Judge of District Court, the Defendant will move for an order as follows:

1. Disclosure of body worn camera video/audio from MPD CN-201 9-127538 from the arrest of Mr. Floyd on May 6, 2019.
2. Any and all files pertaining to Mr. Floyd's cooperation as an informant (snitch) for the Minneapolis Police, FBI or any other state or federal law enforcement agency either before or after May 6, 2019. This includes information from ongoing and closed investigations, documents or other information prepared as part of the vetting process to become an informant/cooperator and any police report/case materials where Mr. Floyd worked as a cooperator, CI, CRI, concerned citizen informant or other status.
3. Any and all files documenting Mr. Floyd's activity as a gang member or gang affiliate within the past 5 years.
4. Any and all information in the possession of the Hennepin County Attorney or other state or federal prosecuting agency regarding Mr. Floyd's May 6, 2019 drug possession/sale investigation or other reports generated following the submission of "this case to the Hennepin County Attorneys (sic) office for charging considerations for FLOYD." See Bates 006356.

5. All information acquired by the Hennepin County Medical Examiner's Office in the death investigation of George Floyd. The Defendant is specifically requesting the complete Hennepin County Medical Examiner's Office file.
6. All information reviewed or relied on by the Department of the Army in their examination of George Floyd. The Defendant is specifically requesting the Office of the Armed Forces Medical Examiner entire file, including emails between any member of that Office and the Hennepin County Medical Examiner or member of that office, the United States Attorney's Office for the District of Minnesota, and the United States Attorney's Office or other governmental agency.
7. Disclosure of the training materials previously disclosed with active imbedded links to the video portions of the presentations.
8. A copy of the State's documents index for all disclosures made to date.
9. Officer Derek Chauvin's personnel records in particular pre-hire screening and any subsequent disciplinary complaints regardless of whether the complaint was substantiated.
10. Due to the extraordinary lapses in discovery, the Defendant joins in the Motion of Mr. Thao filed August 25, 2020 who has respectfully moved the Court to continue the issue of causation of death from the September 11, 2020 Omnibus Hearing date to a date to be scheduled.

DISCUSSION

The Minnesota Rules of Criminal Procedure require the State to disclose any documents and tangible objects related to the case and any reports of examinations or tests. Minn. R. Crim. P. 9.01 subd. 1(1)(2020). The Hennepin County Medical Examiner's file fits into this requirement.

The Office of the Armed Forces Medical Examiner's report and autopsy must be produced pursuant to Minn. R. Crim. P. 9.01 subd. 2(1) and (3)(2020) as the rule requires the production of "specified matters relating to the case that are within the possession or control of an official or employee of any governmental agency, but not within the

prosecutor's control” and may “negate guilt or reduce the culpability of the defendant as to the offense charged”. See Minn. R. Crim. P. 9.01 subd. 2(1)(2020); and Minn. R. Crim. P. 9.01 subd. 2(3). A showing that Mr. Floyd’s death did not result from the restraint used by former officer Derek Chauvin is clearly exculpatory where the Defendant is accused of aiding and abetting an assault purportedly committed by Mr. Chauvin. The same rule applies to discovery of BWC footage from Mr. Floyd’s drug arrest.

Respectfully submitted,

Date: August 27, 2020

/s/ **Thomas C. Plunkett**

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