

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

 PLAINTIFF,
V.

TOU THAO,

**MOTION TO LIFT
GAG ORDER**

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

NOTICE OF MOTION

Please take notice, that at a date to be scheduled before the court, Tou Thao (“Defendant” herein) will move the Court for an order lifting the Gag Order it issued on July 9, 2020.

MOTION

Defendant, by and through counsel, respectfully moves the Court to lift the Gag Order. The grounds for this request are that there is no basis to issue the order in this particular case (State v. Tou Thao, 27-CR-20-12949). Neither party in this particular case made a statement in violation of the Court’s admonition on June 29th, 2020.

Secondly, there are not proper substantive grounds for the Gag Order under Minn. R. Crim. P. 25.03. Statements to the public and media will not “present a substantial likelihood of interfering with the fair and impartial administration of justice” as long as the parties follow the Court’s June 29, 2020 admonition. Minn. Stat. 25.03 subd. 4. The fact that attorneys in other related cases (as no joinder motions are properly before this court) spoke publicly regarding their

case(s) has not threatened to prejudice Mr. Thao's constitutional right to a fair and public trial. In fact, the very reason behind the Court's admonition was the fact that numerous public figures (Governor Walz, Mayor Frey, Mayor Carter, BCA Chief Harrington, Minneapolis Police Chief Arradondo, and civil attorney Benjamin Crump) and both prosecuting attorneys (Hennepin County Attorney Mike Freeman and Minnesota Attorney General Keith Ellison) made repeated public statements that were highly prejudicial and referred to inadmissible evidence regarding the case. The Court must weigh all "all reasonable alternatives" to a gag order at this point in this case including a change of venue. A gag order is not the correct prescriptive measure until the Court rules on whether a change of venue is appropriate in this case.

Finally, the Court issued the Gag Order in violation of Minn. R. Crim. P. 25.03, which requires not only a motion and notice, but a public hearing where a court must make specific findings to justify the issuance of a restrictive order

Counsel respectfully asks the Court to lift the Gag Order until the substantive and procedural requirements have been met.

Respectfully submitted,

Dated: This 13th day of July, 2020

/s/ Robert M. Paule
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