

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF FREEBORN

THIRD JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

**STATE'S NOTICE OF MOTIONS &
MOTIONS IN LIMINE**

vs.

Melissa Lynn Hanson (07/14/1964),

District Court File No. 24-CR-21-137

Defendant. _____

**TO: The District Court of the Third Judicial District, and Melissa Lynn Hanson,
Defendant:**

PLEASE TAKE NOTICE that at the November 24, 2021 scheduled court hearing, at the Freeborn County Courthouse, Albert Lea, Minnesota, or as soon thereafter as counsel may be heard, the undersigned will move for an order from the court granting the following relief:

1. Directing the attorneys/defendant that during voir dire they are not to examine prospective jurors as to their understanding of the law, or to give by their questions, a course of instruction on the law, or to extract promises on how to decide the case.

It is the duty of each juror to follow the instructions of the court. Therefore, it is not proper to ask jurors what they know, or what their opinion is, about matters such as presumption of innocence, proof beyond a reasonable doubt and the elements of the offense, or to ask their knowledge or opinion about any other matters of law. It is also not a proper subject for voir dire to ask the jurors, in advance of hearing all the evidence, how certain evidence may affect how they decide the case.

Authority: *State v. Bauer*, 189 Minn. 280, 249 N.W. 40 (1933) and *State v. Evans*, 352 N.W.2d 824, 826 (Minn. Ct. App. 1984).

2. Directing attorneys/defendant not to ask prospective jurors questions putting themselves in the shoes of either defendant or victim. Specifically, not to ask "If you were the defendant would you want a person such as yourself on the jury?"

Authority: *State v. Johnson*, 324 N.W.2d 199, 202 (Minn. 1982); and *State v. Backus*, 358 N.W.2d 93, 95-96 (Minn. Ct. App. 1984).

3. Prohibiting the defense from inquiring, offering evidence, or commenting upon in the presence of potential jurors or the jury, the possible punishment or other adverse effects which defendant may face if a conviction results.

Authority: Only relevant evidence is admissible at trial. Minn. R. Evid. 402. Because the question of punishment is exclusively for the court, *State v. Finley*, 214 Minn. 228, 231-32, 8 N.W.2d 217, 218 (1943), it is not relevant to any of the issues which the jury must consider as the finder of fact. As the Supreme Court held in *Finley*:

The responsibility of imposing punishment upon a defendant in a criminal case rests exclusively with the court. The jury go outside their province as triers of the facts if they include the matter of punishment in their deliberations. *Id.* (Emphasis added.)

4. An order directing that all potential trial witnesses be sequestered or excluded from the courtroom prior to their appearance in court to testify.

Authority: *See generally*, Minn. R. Crim. P. 26.03, subd. 7; Minn. R. Evid. 615; *State v. Jones*, 347 N.W.2d 796 (Minn. 1984); *State v. Posten*, 302 N.W.2d 638 (Minn. 1981).

5. An order directing that witnesses be prohibited from talking to each other about the substance of their testimony (or other proceedings during or concerning trial). Further for an order directing attorneys/defendant to admonish her/his witnesses to refrain from such conduct.

Authority: *See State v. Erdman*, 383 N.W.2d 331 (Minn. 1986); *State v. Miller*, 396 N.W.2d 903 (Minn. App. 1986).

6. An order directing attorneys/defendant to admonish all of his/her witnesses to refrain from offering such testimony or volunteering such information about issues or purported evidence found to be inadmissible and ordered excluded by this Court.

Authority: *See generally*, *State v. Carlson*, 264 N.W.2d 639, 641 (Minn. 1978).

7. Prohibiting the defense from inquiring, offering evidence, or commenting upon in the presence of the jury or prospective jurors, the constitutionality of:
 - a. Searches conducted in the case;
 - b. The manner in which statements were taken from the defendant in this case;
 - c. The arrest of the defendant in this case;
 - d. Governor Walz's executive orders pursuant to Minn. Stat. § 12.31 through § 12.39;
 - e. Jurisdiction and subject matter jurisdiction of the court.

Authority: These matters are questions of the law that must be challenged at the evidentiary hearing. They are not issues for the jury to consider as finder of fact. *Cf.*, *State v. Keiser*, 274 Minn. 265, 269, 143 N.W.2d 75, 78 (1966) [partially overruled on other grounds, *State v. Wajda*, 296 Minn. 29, 206 N.W.2d 1 (1973)].

- “In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed.” Minn. Const. art. I, sec. 6; U.S. Const. art. III, § 2; Minn. Stat. § 609.025; *State v. Smith*, 421 N.W.2d 315 (Minn. 1988) (“The theory of jurisdiction to hear criminal cases has its roots in the common law and has been carried forward in the Constitutions of this state and the United States. “Jurisdiction depends on where the crime was committed.”). The “sovereign-citizen jurisdictional defense has no conceivable validity in American law.” See, *State v. Winbush*, 912 N.W.2d 678 (Minn. App. 2018) (citing *United States v. Schneider*, 910 F.2d 1569, 1570 (7th Cir. 1990).
8. An order from the court allowing the State to provide the jury with copies of audio transcripts to assist jurors while listening to admitted audio, and that the court will provide the jury with an instruction on the appropriate use of these transcripts.
- Authority: *State v. Olkon*, 299 N.W.2d 89 (Minn. 1980) (finding no error in providing jurors with audio transcripts and properly instructing jurors on transcript use).
9. An order from the court allowing the State to publish electronic media by the following process. Prior to trial, the State will make an exact copy of the exhibit by placing it on the computer's hard drive/flash drive. During trial, rather than publishing the exhibit from the CD/DVD-Rom drive (which is notoriously slow and oftentimes skips or causes the audio and media to become out-of-sync), the State will publish the exhibit by playing the exact copy from the hard drive/flash drive (which will play much smoother, faster, and oftentimes eliminates the skipping and out-of-sync problems).
10. An order from the court prohibiting misstatements of the burden of proof, including, but not limited to, statements such as, "Proof beyond a reasonable doubt requires the proof you would need to convict your own family member."
- Authority: *State v. Coleman*, 373 N.W.2d 777, 782 (Minn. 1985) (holding "misstatements of the burden of proof are highly improper"); *State v. DeVere*, 261 N.W.2d 604, 606 (Minn. 1977) (stating best practice is to adopt a reasonable doubt definition that has already been generally approved).
11. An order prohibiting the defendant from commenting on the failure or alleged failure of the prosecution to call a witness.
- Authority: *State v. Daniels*, 361 N.W.2d 819, 833 (Minn. 1985); *State v. Swain*, 269 N.W.2d 707 (Minn. 1978).
12. An order prohibiting the defendant from offering any personal opinions.
- Authority: *State v. Strodtman*, 399 N.W.2d 610, 615 (Minn. Ct. App. 1987), rev. denied March 25, 1987.

13. An order from the court allowing Sue Yost, RN/PHN, Director Freeborn County Public Health Director, to testify as an expert on the transmissibility and public health risks related to the COVID-19 pandemic.

Authority: If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. Minn. R. Evid. 702.

14. An order permitting the State to introduce evidence of KAAL TV media coverage containing defendant's statements upon Affidavit of Authenticity by KAAL TV Custodian of Records.

Authority: The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. Minn. R. Evid. 901(a); Minn. R. Evid. 902(8); Minn. R. Evid. 803(6); Minn. R. Evid. 801(d)(2).

15. An order from the court prohibiting the defendant from calling any previously undisclosed witness.

16. An order prohibiting the defendant from asserting any previously undisclosed defense.

Dated: November 22, 2021

Respectfully submitted,

/s/ Kelly Martinez
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