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August 21, 2024

Eric M. Woodford
151 4th Street SE
Rochester, MN 55904

Re: State of Minnesota v. Connor Fitzgerald Bowman
Court File No.: 55-CR-23-7149

Dear Eric M. Woodford,

This letter is response to your *Needham* request dated August 13, 2024.

1. Motion to Dismiss Indictment

Defense Motion 1 – alleges that the evidence presented is insufficient for a grand jury to find probable cause. The defense does not expect to need any witnesses.

Defense Motion 2 – will focus on specific pieces of evidence introduced during grand jury testimony, and whether or not those specific pieces were admitted contrary to the rules of evidence. The defense does not expect to need any witnesses.

Defense Motion 3 – will focus on evidence received by the grand jury, and failures of prosecutors to instruct the jury how to properly use that evidence as it was received. It will not focus on final instructions to the jury. The defense does not expect to need any witnesses.

Defense Motion 4 – will be withdrawn.

Defense Motion 5 – is based on the fact that the Honorable Pamela King was removed from presiding over this case, yet was used to constitute and swear in the grand jury in this matter. The defense does not expect to need any witnesses.

Defense Motion 6 – will be determined based on the court's ruling on other defense motions, and either withdrawn or litigated based on the court's ruling. The defense does not expect to need any witnesses.

Defense Motion 7 – will be determined based on the court's ruling on other defense motions, and either withdrawn or litigated based on the court's ruling. The defense does not expect to need any witnesses.

Defense Motion 8 – will argue based on the totality of the first 7 motions that the combination of errors should invalidate the indictment. The defense does not expect to need any witnesses.

2. Motion to Suppress (“Motion 2”)

The items seized relate to the employment of Mr. Bowman, in which Mr. Bowman had a legitimate expectation of privacy. The items were in the possession of Mayo Clinic, but were directly related to Mr. Bowman and his capacity as a doctor at Mayo Clinic. In *Katz v. United States*, 389 U.S. 347, (1967), the Supreme Court makes clear that capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the area was one in which there was a reasonable expectation of freedom from governmental intrusion. In *Mancusi v. DeForte*, 392 U.S. 364, 367 (1968), the Court identified a business premises as such an area that may be contested by an employee when it is one in which there is a reasonable expectation of freedom from government intrusion. The items sought were of the sort that one keeps private and his relationship to the items seized support a legitimate expectation of privacy.

3. Motion to Suppress (“Motion 3”)

The items seized relate to the employment of Mr. Bowman, in which Mr. Bowman had a legitimate expectation of privacy. The items were in the possession of Kansas University Medical Center, but were directly related to Mr. Bowman and his employment as a Pharmacist at Kansas University Medical Center. In *Katz v. United States*, 389 U.S. 347, (1967), the Supreme Court makes clear that capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the area was one in which there was a reasonable expectation of freedom from governmental intrusion. In *Mancusi v. DeForte*, 392 U.S. 364, 367 (1968), the Court identified a business premises as such an area that may be contested by an employee when it is one in which there is a reasonable expectation of freedom from government intrusion. The items sought were of the sort that one keeps private and his relationship to the items seized support a legitimate expectation of privacy.

4. Motion to Suppress (“Motion 4”)

The items searched under the warrant addressed in the above-entitled motion were owned, possessed, or regularly used by Mr. Bowman. Mr. Bowman had a legitimate expectation of privacy in these items.

5. Motion to Suppress (“Motion 5”)

The items seized that are subject to this motion relate to Mrs. Betty Bowman’s medical records. Medical records fall within the scope of physician-patient privilege. Medical privilege survives a patient’s death. *State v. Hummel*, 483 N.W.2d 68 (Minn 1992). Mrs. Betty Bowman’s medical privilege passed, upon her death, to her husband, Mr. Bowman.

6. Motion to Suppress (“Motion 9”)

Mr. Bowman had a reasonable expectation of privacy in his prescription records as they are “health records”. Medical privilege clearly applies in this situation. This expectation of privacy has been codified by the Minnesota Legislature in Minn. Stat. § 144, which defines health records as “any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient.”

7. Motion to Suppress (“Motion 10”)

The items seized under the warrant addressed in the above-entitled motion, although in the possession of Mayo Clinic, were directly related to Mr. Bowman. Mr. Bowman was employed as a doctor at Mayo Clinic. In *Katz v. United States*, 389 U.S. 347, (1967), the Supreme Court makes clear that capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the area was one in which there was a reasonable expectation of freedom from governmental intrusion. In *Mancusi v. DeForte*, 392 U.S. 364, 367 (1968), the Court identified a business premises as such an area that may be contested by an employee when it is one in which there is a reasonable expectation of freedom from government intrusion. The items sought were of the sort that one keeps private and his relationship to the items seized support a legitimate expectation of privacy.

8. Motion to Suppress (“Motion 11”)

The items seized under the warrant addressed in the above-entitled motion, although in the possession of Kansas University Medical Center, were directly related to Mr. Bowman. Mr. Bowman was employed as a Pharmacist at Kansas University Medical Center. In *Katz v. United States*, 389 U.S. 347, (1967), the Supreme Court makes clear that capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the area was one in which there was a reasonable expectation of freedom from governmental intrusion. In *Mancusi v. DeForte*, 392 U.S. 364, 367 (1968), the Court identified a business premises as such an area that may be contested by an employee when it is one in which there is a reasonable expectation of freedom from government intrusion. The items sought were of the sort that one keeps private and his relationship to the items seized support a legitimate expectation of privacy.

9. Medical Records in Multiple Motions

These questions do not appear to relate to a *Needham* issue. The Defense has provided adequate grounds in its motions to suppress on which the State may rely when preparing to present evidence at the contested motion hearing. Seeking clarification of the law surrounding these issues, as it appears the final two paragraphs of the State’s August 13, 2024 letter does, is outside of the scope of *Needham*.

Needham requires that a Defense motion have reasonable particularity as to the grounds for suppression so as “to give the state a full and fair opportunity to meet its burden ...” *Needham*, 488 N.W.2d at 297. The States final two requests appear to request information exceeding this requirement. It is anticipated that these questions will be clarified in the post-hearing memorandums filed by the Defense.

If further clarification is necessary, the Defense is happy to meet with the Court or the State.

Sincerely,

/s/ Michael Schatz

Michael D. Schatz

C: client

MINNESOTA
JUDICIAL
BRANCH