

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,	)	Criminal No. 21-108(1) (PAM/TNL)
	)	
Plaintiff,	)	
	)	
v.	)	<b>DEFENDANT’S MOTION FOR</b>
	)	<b>DISCOVERY</b>
DEREK MICHAEL CHAUVIN,	)	
	)	
Defendant.	)	

Derek Chauvin moves this Court to allow him to take discovery. Rule 6 of the Rules Governing Section 2255 Proceedings allows for a party in habeas to take discovery, provided the Court concludes that there is good cause for the discovery.

The opinion of Dr. Schaetzel is that Mr. Floyd died due to a catecholamine crisis when his paraganglioma secreted excessive levels of catecholamines. Dr. Schaetzel urges that samples preserved from Mr. Floyd be tested for catecholamines and their metabolites, and that tissue sections of Mr. Floyd’s heart be examined. These tests and examinations would support Dr. Schaetzel’s opinion about what caused Mr. Floyd to die if high levels of catecholamines or their metabolites were discovered, or if the heart tissue showed evidence of Takotsubo’s myocarditis. (Takotsubo’s myocarditis is an acute heart failure (i.e., a heart attack), that is caused by a catecholamine crisis.) So Dr. Schaetzel’s opinion is that the catecholamine crisis led to Takotsubo’s myocarditis, resulting in pulmonary edema and death. Because

these tests and examinations would support Dr. Schaetzel's opinion depending on their results, there is good cause to conduct the tests.

The autopsy report indicates that several fluids from George Floyd were collected, and these fluids could be tested for the concentration of fractionated catecholamines and metanephrine levels present. The fluids that Chauvin wants to test are as follows:

- Vitreous Fluid (also called aqueous humor). This is fluid taken from the eyes. Postmortem vitreous fluid was "collected and retained" by the Hennepin County Medical Examiner's Office. (Docket Entry (DE) 544-1 at 22.)
- Postmortem Femoral Blood. This fluid was "collected and retained" by the Hennepin County Medical Examiner's Office. (DE 544-1 at 22.)<sup>1</sup>
- Antemortem blood specimens. The autopsy report says that these blood specimens were collected on 5-25-20 at 9pm at HHC.
- Urine. This fluid was "collected and retained" by the Hennepin County Medical Examiner's Office. (DE 544-1 at 22.)

The autopsy report also indicates that slides of Floyd's heart tissue were prepared (DE 544-1 at 22-23), that his heart was examined (*id.* at 21), and that "[r]epresentative tissue biopsies are retained in formalin for microscopic examination," (*id.* at 22.) (Tissue biopsies just means tissue samples, and formalin is a solution containing formaldehyde that is used to preserve tissue.) Chauvin requests that the heart slides be examined to see if they show

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<sup>1</sup> When you withdraw blood, you have red blood cells, a smattering of other cells (white blood cells, for example), and a liquid portion. Blood contains things in it that make it clot when it stops moving (fibrinogen and other clotting factors). Plasma is the liquid portion of blood that has fibrinogen and the other clotting factors in it. Serum is similar to plasma, but the fibrinogen and other clotting factors have been removed.

Takotsubo's myocarditis. If the slides are no longer available, but their information has been stored in another format (for example, digitally), then Chauvin requests that that content be examined to see if it shows Takotsubo's myocarditis. The Medical Examiner's office also likely has heart tissue from Floyd preserved and may also have the histological paraffin blocks containing heart tissue. (Counsel has contacted the Hennepin County Medical Examiner's Office to inquire whether fluids, slides, and tissue samples from Floyd still existed, and was told that they likely were.) To prepare slides of tissue, the tissue is first impregnated in paraffin (wax), and then these histological paraffin blocks are thinly sliced, and the thin cuts are set on slides. (These can also be called tissue blocks.) If the histological paraffin blocks containing heart tissue still exist, these could be used to prepare new slides of the heart tissue in case the original slides or their content are not available, or in case the original slides or their content are not sufficient to determine whether Takotsubo's myocarditis occurred. Similarly, if heart tissue has been preserved in formalin, then that heart tissue or a portion of it can be used to make a new histological paraffin block containing heart tissue from which new heart slides could be prepared. To ensure that the heart tissue can be examined to determine whether Takotsubo's myocarditis occurred, Chauvin requests that he be allowed to use existing histological paraffin blocks containing heart tissue to make new heart-tissue slides, or if the paraffin blocks no longer exist, that he be allowed to use preserved heart tissue in formalin to prepare new histological

paraffin blocks containing heart tissue from which to make new heart-tissue slides.

The autopsy report also indicates that photos were taken of Floyd's heart. Chauvin also wants these photos to be examined, as this could aid in determining whether Takotsubo's myocarditis occurred.

Rule 6 of the Rules governing Section 2255 proceedings says that discovery may be conducted for good cause under the Federal Rules of Civil Procedure or Criminal Procedure. Rule 45 of the Federal Rules of Civil Procedure authorizes discovery by subpoena, and Rule 45(a)(1)(D) allows a party to use a subpoena to access "documents, electronically stored information, or tangible things" for "inspection, copying, testing, or sampling of the materials."

In sum, Chauvin requests the following discovery:

- Any and all histology slides of Floyd's heart, tissue samples of Floyd's heart, tissue blocks containing heart tissue from Floyd, recut sections of all autopsy tissue histology slides relating to Floyd's heart, related to the criminal case against Derek Chauvin for the death of George Floyd possessed by the Hennepin County Medical Examiner's Office (HCMEO), and any entity that the HCMEO contracted with that has these materials.
- Photos taken of George Floyd's heart.
- Any and all vitreous fluid/aqueous humor, postmortem blood, antemortem blood, and urine from Floyd possessed by the HCMEO, any entity that the HCMEO contracted with that has these materials, HHC (autopsy report notes that antemortem blood was taken at HHC), and NMS Labs (NMS Labs conducted the toxicology testing and produced the toxicology report, and thus they may still have samples of the blood and urine that they tested (DE 544-1 at 25-26)). Chauvin requests quantities of these fluids sufficient to test the concentration of fractionated catecholamines and metanephrine levels present.

Dated: December 13, 2024

Respectfully submitted,

*s/ Robert Meyers*

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