

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT

State of Minnesota,

Court File: 85-CR-23-937

Plaintiff

v.

ORDER

Adam Taylor Fravel,

Defendant.

The above-entitled matter came before the undersigned Judge of District Court for a contested omnibus hearing on March 19-20, 2024, on Defendant's motions to suppress statements, to dismiss one count of the indictment, and to dismiss the aggravated departure motion. The State of Minnesota was represented by Special Assistant Winona County Attorney Phillip D. Prokopowicz. The Defendant was present with his Attorneys Zachary Bauer and Grace Dokken.

The Court, having issued orders on Defendant's motions and recognizing that these orders reference the grand jury transcript and/or exhibits, in accordance with this Court's restrictive order dated March 19, 2024, seals the orders. In order to balance public access rights with the rights of the parties involved in this litigation, it now issues this separate public order summarizing the sealed orders.

ORDER

1. Defendant's statements to law enforcement were legally obtained. His motion to suppress these statements is DENIED.
2. The State's motion to submit this aggravated departure notice to a jury is GRANTED.

3. Defendant's Motion to dismiss the charge of Murder in the First Degree – Premeditation is DENIED.
4. The attached memorandum is incorporated herein by reference.

BY THE COURT



Buytendorp, Nancy
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Nancy L. Buytendorp
Judge of District Court

MINNESOTA
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MEMORANDUM

Defendant has been indicted by the Grand Jury of Winona County with Murder in the First Degree – Past Pattern of Domestic Abuse; Murder in the First Degree – Premeditation; Murder in the Second Degree – Intentional (Without Premeditation); and Murder in the Second Degree – Unintentional (While Committing a Felony). These charges stem from incidents alleged to have been committed on March 31, 2023. Defendant challenges the admissibility of his April 2, 2023, statement to law enforcement, the sufficiency of the probable cause to support the charge of Murder in the First Degree – Premeditation; and the State’s Notice of Intent to Seek an Aggravated Sentence.

Defendant’s Motion to Suppress Statements to Law Enforcement

Defendant argues that his statement to police on April 2, 2023, was obtained in violation of his Miranda rights and moves to suppress the statement. A Miranda warning is required if a suspect is both in custody and subject to interrogation. *State v. Thompson*, 788 N.W.2d 485, 491 (Minn.2010). In this case, there is no dispute that the questioning by the officers constituted an interrogation. The issue before the Court was whether Defendant was in custody when he gave his April 2, 2023, statement to law enforcement.

Pursuant to the Fifth Amendment, statements made by a suspect during a custodial interrogation are admissible only if the suspect was informed of his Miranda rights. *See Oregon v. Mathiason*, 429 U.S. 492, 494–95, 97 S.Ct. 711, 50 L.Ed.2d 714 (1977) (citing *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966)). The legal test for custody is whether a reasonable person under the circumstances would believe that they were in police custody to a degree associated with a formal arrest. *State v. Thompson*, 788 N.W.2d 485, 491 (Minn. 2010). Therefore, when an individual, such as the Defendant in this case, has not yet been

arrested, the Court “must examine all of the surrounding circumstances and evaluate whether a reasonable person in the suspect’s position would have believed he was in custody to the degree associated with an arrest.” *State v. Miller*, 573 N.W.2d 661, 670 (Minn. 1998).

While it is true that the interrogation of Defendant transpired within the confines of the police station, extended beyond 86 minutes, and the Defendant was not explicitly informed of his nonarrest status - elements suggestive of custody – several countervailing factors point to the Defendant not being in custody during the interview. Notably, Defendant willingly consented to meet the officers and drove his own vehicle to the station. There is no evidence indicating any restriction on his freedom of movement. Additionally, Defendant maintained his innocence regarding knowledge of Ms. Kingsbury’s whereabouts, and it is worth highlighting that the two plainclothes officers conducting the interview did not employ firearms throughout the encounter. Ultimately, Defendant departed without impediment following the interview.

After thoroughly examining all pertinent facts and circumstances related to the statement made to law enforcement, this Court determined that the Defendant was not subjected to a custodial interrogation necessitating a formal *Miranda* warning. Consequently, the Court found no grounds to suppress these statements and Defendant’s Motion to Suppress was denied.

Defendant’s Motion to Dismiss State’s Aggravated Departure Motion

Defendant brought a motion to dismiss the state’s Notice of Intent to Seek an Aggravated Sentence, which was timely filed on November 17, 2023. In the notice, the State outlined the grounds for departure, including particular cruelty to the victim. The State also filed a summarized statement detailing the factual basis supporting the particular cruelty ground including information regarding the location and concealment of Ms. Kingsbury’s body.

Defendant argues there is insufficient probable cause to establish that Ms. Kingsbury's body remained in the location where it was discovered for the entire time since she went missing.

The Court conducted a preliminary review of the State's notice of intent to seek an aggravated sentence pursuant to *Blakely v. Washington*, 542 U.S. 296 (2004) and thoroughly examined the evidence presented to the grand jury, encompassing, among other things, details concerning the concealment of the deceased body along a minimum maintenance road and the locations where Defendant traveled on the day Ms. Kingsbury went missing.

The Minnesota Supreme Court has held that the "concealment of a homicide victim's body, in and of itself, may be an aggravating factor under the sentencing guidelines that supports an upward durational departure." *State v. Hicks*, 864 N.W.2d 153, 159 (Minn. 2015). And this Court is bound by Minnesota Supreme Court precedent and the published opinions of the Minnesota Court of Appeals. *State v. Peter*, 825 N.W.2d 126, 129 (Minn. App. 2012).

After thoroughly examining all pertinent facts and circumstances related to the *Blakely* notice, this Court found that the factual basis upon which the State relies in support of an aggravated sentence is sufficient to support submitting the question of an aggravated sentence to a jury in this case and Defendant's Motion to Dismiss the State's Aggravated Departure Motion was denied.

Defendant's Motion to Dismiss Indictment

After seven days of instructions, witness testimony, and deliberations, the Grand Jury ultimately found probable cause for each of the elements of First-Degree Murder – Premeditation under Minn. Stat. § 609.185, subd. (a)(1). Defendant brought a motion to dismiss this charge, arguing that the evidence presented to the Grand Jury regarding premeditation was insufficient to establish probable cause.

It is important to note that once a Grand Jury finds that probable cause exists to support an indictment, “[a] presumption of regularity attaches to [the] Grand Jury indictment, and it is a rare case where an indictment will be invalidated. *State v. Inthavong*, 402 N.W.2d 799, 801 (Minn. 1987); *Marhoun v. State*, 451 N.W.2d 323, 327 (Minn. 1990). This presumption of regularity places upon a defendant a heavy burden in undertaking to overturn a Grand Jury indictment. *State v. Scruggs*, 421 N.W.2d 707, 717 (Minn. 1988).

Defendant argues that the circumstantial evidence presented to the Grand Jury fails to exclude any inference other than premeditation. The proper standard for evidence warranting an indictment is laid out in Minnesota Rule of Criminal Procedure 18.05 subd. 2 which states a Grand Jury may indict if the evidence establishes that there is probable cause to believe that an offense has been committed and that the defendant committed it. The existence of alternative explanations does not automatically negate the presence of probable cause. The stricter standard proposed by Defendant should be used to evaluate whether there is enough circumstantial evidence to justify the trial jury's conclusion that the defendant committed the offense beyond a reasonable doubt; this standard is not used in a Grand Jury setting. See *State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002). *State v. Stein*, 776 N.W.2d 709, 716 (Minn. 2010).

The evidence of premeditation in this case was circumstantial. The case of *State v. Palmer* is a first-degree murder appeal that addresses the standard of proof for circumstantial evidence of premeditation. 803 N.W.2d 727, 733 (Minn. 2011). In *Palmer*, sufficient circumstantial evidence supported the conclusion that defendant premeditated the murder of the victim, as necessary to support conviction for first degree premeditated murder. Likewise, in this case, the evidence presented to the Grand Jury establishes that there is probable cause to believe

that the offense of Murder in the First Degree – Premeditation was committed, and that Defendant committed it.

Defendant also argues that the Grand Jury was presented with possible inadmissible evidence. The” inadmissible evidence” referred to by Defendant is the subject of the State’s November 17, 2023, notice of intent to introduce evidence as substantive evidence pursuant to Rule of Evidence 807 – the residual exception to the hearsay rule. This Rule 807 notice has not yet been addressed by the Court. The State has the burden of demonstrating that the out-of-court statements will be admissible at trial. Defendant has expressed an objection to the admissibility of the statements. This Court will hear argument on the admissibility of these statements at a pretrial hearing yet to be scheduled. And therefore, these statements were not considered by this Court in its determination of whether sufficient admissible evidence was presented to the Grand Jury.

It is key to acknowledge, the fact that grand jurors may hear evidence that would be inadmissible at trial is not sufficient to dismiss an indictment if there is sufficient admissible evidence to establish probable cause. *State v. Greenleaf*, 591 N.W.2d 488, 498 (Minn. 1999). And in this case, sufficient, admissible evidence was presented to establish probable cause for Murder in the First Degree - Premeditation even with the possible defects regarding hearsay evidence.

Defendant also contends that the State’s instruction to the Grand Jury, allowing consideration of relationship evidence in determining premeditation, was improper. However, such relationship events have the potential to signify premeditation, thereby justifying the State’s instruction for the Grand Jury to consider this evidence in assessing whether the Defendant acted with premeditation.

After thoroughly examining all pertinent facts and circumstances related to the indictment, this Court found that the State presented ample admissible evidence to substantiate the Grand Jury's determination of probable cause for issuing the indictment. Defendant's Motion to Dismiss the charge of Murder in the First Degree- Premeditation was denied.

NLB



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