

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT

State of Minnesota,

Court File: 85-CR-23-937

Plaintiff

v.

**ORDER ON MOTION TO
CHANGE VENUE**

Adam Taylor Fravel,

Defendant.

The above-entitled matter came before the undersigned Judge of District Court on April 30, 2024, on Defendant's Motion to Change Venue. The State was represented by Special Assistant Winona County Attorney Phillip D. Prokopowicz. Defendant was present and appeared with his Attorneys Zachary Bauer and Grace Dokken.

Upon the evidence of the record, the Court, being fully advised in the premises, makes the following:

ORDER

1. Defendant's motion to change venue is GRANTED.
2. The following Memorandum is incorporated herein by reference.

BY THE COURT:



Buytendorp, Nancy
2024.06.12
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**Nancy L. Buytendorp
Judge of District Court**

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 argues that a fair and impartial trial cannot be had in Winona County and moves the Court to change venue.

Generally, criminal trials must be held in the county where the offense was committed, “unless the rules direct otherwise.” Minn. R. Crim. P. 24.01. A district court “must” grant a motion to change venue or continue the trial “whenever potentially prejudicial material creates a reasonable likelihood that a fair trial cannot be had.” Minn.R.Crim.P. 25.02, subd. 3.

Defendant moves for a change of venue arguing: 1) the prejudicial publicity creates a likelihood that a fair trial cannot be had in Winona County per Minn.R.Crim P. 25.02 subd. 3 and 2) the involvement of the Winona County community creates a likelihood that a fair trial cannot be had in this county per Minn. R. Crim. P. 24.03 subd. 1.

District courts have wide discretion in deciding motions for change of venue. *See State v. Salas*, 306 N.W.2d 832, 835 (Minn. 1981) citing *State v. Thompson*, 266 Minn. 385, 123 N.W.2d 378, 380 (Minn. 1963). A district court should grant a motion for change of venue when “the dissemination of potentially prejudicial material creates a reasonable likelihood” of an unfair trial. Minn.R.Crim.P. 25.02, subd. 3. A showing of actual prejudice is not required. *Id.* “The theory of our trial system is that the conclusions to be reached in a case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print.” *Skilling v. United States*, 561 U.S. 358, 378 (2010). While pretrial publicity may

jeopardize a defendant's right to a fair trial by an impartial jury, no presumption of prejudice arises unless there is massive publicity surrounding the trial. *Sheppard v. Maxwell*, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d 600 (1966); *Estes v. Texas*, 381 U.S. 532, 85 S.Ct. 1628, 14 L.Ed.2d 543 (1965).

Both parties agree that the public has been subjected to a lot of publicity about this case. Defendant provided numerous items of media and public coverage showing substantial prejudicial publicity warranting a change of venue. The media and public coverage, which has been consistent and extensive, includes but is not limited to the following: a KTTC article from June 2023 titled “I am furious, friends of Madeline told to be quiet by Fravel family.”; a KTTC story from July 31, 2023 titled “‘Know that Adam did it’, unsealed documents detail new evidence in Kingsbury case”; a KTTC three part series ran in November, 2023 entitled “Finding Madeline”; multiple X social media posts by Winona County Emergency Management referencing Domestic Violence and Justice for Maddie; TikTok videos placing blame on Defendant; a CBS News 48 Hours episode aired on April 13, 2024, where Winona Officials referred to Ms. Kingsbury as the “daughter of Winona.” Media outlets have reported and will continue to report on this case extensively.

Again, the mere presence of pretrial publicity does not automatically warrant a change of venue unless it is shown to have a prejudicial effect on jurors’ minds. *State v. Chauvin* 989 N.W.2d 1 (2023). Defendant, to show that publicity has affected the impartiality of prospective jurors, offered findings of a public opinion survey conducted of Winona County residents between February 21, 2024, and March 6, 2024. A research firm conducted a telephone survey among 100 adult residents of Winona County, split evenly between those residing within the city

limits and those residing in the balance of the county. The surveyors made the following key findings:

- 1) 89% of Winona County residents have seen, heard, or read a news story about the disappearance of Madeline Kingsbury.
- 2) 74% of those who have accessed a news story have formed an opinion about who is responsible for the death of Ms. Kingsbury.
- 3) 99% of those who accessed a news story and formed an opinion feel that Adam Fravel caused the death of Ms. Kingsbury.
- 4) 21% of those with news story access either personally participated or had a family member who participated in the search for Ms. Kingsbury.

Public opinion surveys stand as a recognized method for demonstrating how the dissemination of prejudicial material to the public can reasonably undermine the possibility of a fair trial without a change of venue. Minn.R.Crim.P. 25.02, subd 2. The results of the public opinion survey conducted in this case are particularly revealing.

If the court determines that a fair and impartial trial cannot be conducted in the current county where the case is pending, it may opt to transfer the case to another jurisdiction. Minn.R.Crim.P. 24.03 Subd. 1. Testimony presented highlighted extensive efforts throughout Winona County to locate Ms. Kingsbury. On April 7, 2023, 1,900 individuals volunteered for the search, with an additional 700 volunteering on April 8th, 2023. Furthermore, Winona County's Emergency Management department requested landowners to search their own properties. According to the public opinion poll referenced earlier, it was revealed that 12% of individuals who had access to news stories participated in, or had family members or close relatives participate in, community gatherings held in honor of Ms. Kingsbury.

Considering the extensive pretrial publicity and the substantial involvement of the Winona community in this case, a change of venue is warranted. The Defendant's motion for such a change is hereby granted. It is evident to this Court that a fair trial cannot be ensured within this county. Therefore, it falls upon this Court to determine which county within the state can best ensure the impartiality necessary for a fair trial. To facilitate this process, this Court will collaborate closely with both district and state court administration to identify a suitable county capable of accommodating this Winona County case.

NLB

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