

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

February 15, 2024

State of Minnesota

**OFFICE OF
APPELLATE COURTS**

Respondent,

PETITION FOR DISCRETIONARY REVIEW

v.

DISTRICT COURT CASE: 70-CR-22-14898

Michael Tien Huynh

DATE OF FILING ORDER: JAN. 19, 2024

Petitioner,

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ATTORNEYS FOR PETITIONER

ATTORNEYS FOR
RESPONDENT

TO: The Court of Appeals of the State of Minnesota

Petitioner, Michael Huynh, respectfully requests discretionary review of the January 19, 2024 Order of the Scott County District Court, the Honorable Caroline H. Lennon, denying the Petitioner's Motion to Suppress his statement to the Police on March 30, 2022, on the basis that the manner and circumstances in which the statement was obtained violated his Miranda rights under the Constitution of the United States and the State of Minnesota. This petition is based upon Minn. R. Crim. P., Rule 28.02, subd. 3 and Minn. R. Civ. App. P. Rule 105.

Statement of facts necessary to an understanding of the issues presented

The Petitioner is a citizen of the United States (*Tr. Contd. Contested Omnibus Hearing*, 21, ¶ 9, *Dkt. #51, Addendum 116*). He lives in Shakopee Minnesota (*Id.* 20, ¶ 25, *Addendum 115*). He has worked as a nail technician for more than 20 years (*Id.* 21, ¶ 3-4, *Addendum 116*). He is married to Kim Huynh (Kim). (*Id.* ¶ 8). His wife Kim is also a nail technician (*Id.* ¶ 17).

Petitioner was born in Saigon Vietnam. He migrated to the United States in 2001. He came to the United States because Vietnam was a totalitarian country. There were no human rights or freedom, for example, the Vietnam Police could arrest anyone any time and could even beat them or kill them. There were so many wrongful deaths. Thus, he wanted to come to the United States for a better future and for freedom. His highest level of education was a Ninth-Grade education which he had in Vietnam. (*Id.* 22, ¶ 24-25, *Addendum 117*).

Since relocating to the United States, he has had no further education and has not learned the English language because he had to make a living and help [his] family in Vietnam, by sending them money. (*Id.* 23, ¶ 1-10, *Addendum 118*). He has had no incidents with the police. He has never been arrested or charged with a crime. (*Id.* 23, ¶ 11-18, *Addendum 118*). However,

he has seen the American police on television making arrests and this makes him afraid because some of their actions sometimes mirror that of the Vietnam police

On March 29, 2022, Petitioner heard a voice in [his] head telling [him] to kill himself, so [he] drove to Highway 169 [in Minnesota], swerved [his car] and thengot into an accident. After the accident he lost consciousness and [an] ambulance (including Police) took [him] to a nearby hospital. (*Id.* 25, ¶ 11-23, *Addendum 120*). This hospital was named St. Francis Hospital (*Id.* 9, ¶ 20-21, *Addendum 104*). At the time of admission at St. Francis, he was in a coma. (*Id.* ¶ 24-25, *Id.* 10, ¶ 1-2, *Addendum 105*). He was transferred to Hennepin County Medical Center (HCMC) later the same day in that condition. (*Id.* ¶ 6-10). He was in really bad shape at that time, and it was around 2:00 or 3:00 in the afternoon (*Tr. Contested Omnibus Hearing, 91, ¶ 12-20, Dkt. #50, Addendum 91*). HCMC advised Police Officer McLain (McLain) of Shakopee Police Department that Petitioner was being transferred to the Surgical Intensive Care Unit and that he was intubated. (*Addendum 192*). McLain visited HCMC on 03/29/22, while Petitioner was in a coma and took photographs of ligature marks on his neck. (*Id.* ¶ 9). The next day (03/30/22) McLain contacted HCMC to see if Petitioner had been extubated. Upon learning he had been extubated, McLain then visited HCMC to interrogate Petitioner during the morning hours of 03/30/22 (*Tr. Contested Omnibus Hearing, 37, ¶ 18-20, Dkt. #50, (Addendum 37)*).

The Petitioner regained consciousness on 03/30/202 but was kept under medication that left him tired and dizzy with headaches. At the time he regained consciousness, there were no family members around. However, there was a man sitting in a chair in his room watching him, staring at him. (*Tr. Contd. Contested Omnibus Hearing, 26, ¶ 5-20, Addendum 121, Dkt. #51*). This man did not wear a uniform, gun or a badge (*Id.* 53, ¶ 17-25, *Addendum 148*). Petitioner recalled the accident and was afraid that he was going to get arrested by the man watching him.

(*Id.* 26, ¶ 19-22, *Addendum 121*) A second man walked in and told the man watching Petitioner to leave. (*Id.* ¶ 24-25), (*Id.* 27, ¶ 1-4, *Addendum 122*). Petitioner believed both persons were police officers. The first watcher left, and the second person (Officer McLain) then went on to talk to Petitioner. (*Id.* 28, ¶ 1-7, *Addendum 123*) At the time McLain entered Petitioner's room, Petitioner still had medical equipment hooked up to him (*Tr. Contested Omnibus Hearing*, 9, ¶ 23-25 - 10, ¶ 1, *Dkt. #50, Addendum 9-101*)

Officer McLain called an interpreter because Petitioner [did not] understand English. Officer McLain kept on talking to the Petitioner and the Petitioner felt very nervous and intense. (*Tr. Contd. Contested Omnibus Hearing* 28, ¶ 9 -16, *Dkt. #51, Addendum 123*). Petitioner did not believe he could get up and walk out of the hospital. He did not feel he could refrain from talking to the officer without being arrested and tortured. (*Id.* 55, ¶ 2-25, *Addendum 150*). Prior to questioning Petitioner, Officer McLain did not give Petitioner a Miranda warning. (*Id.* ¶ 2-16)

Based on that statement, Petitioner was charged on December 2, 2022, with 6 Counts of Criminal Sexual conduct at the Scott County District Court (See Complaint, Court File No. 70-CR-22-14898, *Dkt. # 1, Addendum 159-167*). On March 31, 2023, he moved to suppress the statement obtained by Officer McLain on the basis that it violated his Fifth and Fourteenth Amendment Rights. (*Defendant's Motion to Dismiss, Dkt. # 13, Addendum 193-194*).

At the hearing, Drs. Randy Ward (Ward) and Ian Heath (Heath), both psychiatrists with the HCMC testified. Dr. Ward testified that he evaluated Petitioner on 03/31/2022 for Suicidal Ideation. (*Tr. Cont. Omnibus Hearing*, 51, ¶ 25, *Id.* 52, ¶ 1, *Dkt. #50, Addendum 51-52*). He found evidence of depression, unspecified and suicidal attempt (*Id.* 14-15). He testified that depression unspecified is a diagnosis in the DSM-5 [the Diagnostic and Statistical Manual of Mental Disorders]. He relied on medical records (*Addendum 247-264*)

Dr. Heath testified that Petitioner was transferred to him as an inpatient between 04/05/22 to 04/15/22 (*Id.* 68, ¶ 20-24, *Addendum* 68). He confirmed that he saw Petitioner 7 times due to concerns about suicidality. (*Id.* 69, ¶ 1-5, *Addendum* 69) His diagnosis was that Petitioner suffered a major depressive episode, with psychotic features. (*Id.* 70, ¶ 8-12, *Addendum* 70). That Petitioner manifested psychotic features as part of his illness and exhibited a positive full output consistent with someone who had had some psychosis. (*Id.* 71, ¶ 1-21, *Addendum* 71) That Petitioner's auditory hallucinations and psychotic features resolved by 04/10/22. (*Id.* 72, ¶ 10-17, *Addendum* 72), that Petitioner suffered a Psychomotor slowing which he described as a literal slowing down of typical voluntary motor movements In such situations, there is a slowdown in Petitioner's thinking because his brain communicates slowly to his body on what to do. (*Id.* 74, ¶ 9-25, *Addendum* 74). That petitioner had manifested those symptoms prior to the referral to Dr. Heath. (*Id.* 78, ¶ 23-25, *Addendum* 78) and that Petitioner was manifesting Psychosis before Dr. Heath examined him. (*Id.* 79, ¶ 1-8, *Addendum* 79). Dr. Heath concluded that Petitioner probably was in about the same condition from his time of admission in HCMC up till when Dr. Heath saw him. He relied on a discharge summary signed by him (*Addendum* 265-274)

At the hearing, the Court considered Officer McLain's report of Petitioner's statement, (*Addendum* 168-171), the verified transcript (*Addendum* 172-187, *Dkt.* # 29, 32) and Officer McLain's report of Kim Huynh (Petitioner's Wife's) statement (*Addendum* 188-192). The Court refused to admit in evidence the 2022 Human Rights Report on Vietnam, published by the United States Department of State (*Dkt.* # 27, *Addendum* 195-237). The Court rejected the said document on grounds of relevance (*Addendum* 135-136).

On January 19, 2024, the District Court issued an order denying the Petitioner's Motion. (Dkt. #63, Addendum 238-246). In so doing, the Court went in direct conflict with established precedent in *State v. Sickles*, 275 N.W. 2d 809 (Minn. 1979). The Court also held that the defendant's will was not overborne and that his statements were the product of rational mind and free will.

Statement of the Issues:

1. Whether the court made wrong findings contrary to the evidence presented at the suppression hearing, thereby resulting in prejudice to petitioner.
2. Did the Court err by refusing to admit into evidence the 2022 Human Rights Report on Vietnam prepared by the United States Department of State on the basis of lack of relevance and did this result in prejudice to petitioner
3. Whether the facts, findings and decision in the Minnesota Supreme Court decision of *State v. Sickles*, 275 N.W. 2d 809 (Minn. 1979) to the effect that a Miranda warning is required before questioning a defendant detained under a hospital hold, is applicable to the facts and circumstances of this case.
4. Whether based on the totality of the circumstances occurring as at 03/30/2022 and petitioner's medical and mental state at that time, his statement to Officer McLain of the Scott County Police Department was made freely, intelligently and voluntarily, as to constitute a waiver of defendant's Miranda rights.

Why an Immediate Appeal is Necessary and Desirable

This Petition merits review under Minnesota Rules of Civil Appellate Procedure 105, because the district court's ruling 'places inordinate pressure on the petitioner to settle this case prior to trial e.g. Doe 175 ex. Rel. Doe175 v. Columbia Heights Sch. Dist., ISD No. 13, 842 N.W. 2d 38, 47 (Minn. App. 2014) (quoting *Gordon v. Microsoft, Inc.*, 645 N.W.2d 393 at 401-402 (Minn. 2002)); *Valspar Refinish, Inc. v. Gaylord's, Inc.*, No. A05-1640, at 2 (Minn. Nov. 22,

2005) to avoid a possible conviction on all 6 charges, rather than take the risk of filing an appeal after conviction, especially in a case where the un-Mirandized statement could potentially be overturned on appeal. A denial of the petition would result in tremendous costs to the Petitioner.

This Court historically has not been receptive to granting petitions for discretionary review, for many reasons. This case is a clear exception. The issue presented involves an extremely important legal issue that has broad application beyond this case. *Doe* 175, 842 N.W.2d at 47. It involves whether questioning a defendant held in hospital under a committal order requires a Miranda advisory. This is the crux of the seminal decision of the Minnesota Supreme Court in *State v. Sickles*, 275 N.W. 2d 809 (Minn. 1979). The Minnesota Supreme Court insists a Miranda warning is necessary. However, the Scott County district court's decision holds otherwise. The district court's holding is highly questionable, *id.*, and presents a conclusion that is truly "troublesome and vexing." *Price*, 256 N.W.2d at 462 n.1. A reversal of the district court's decision would help determine what evidence comes in during the trial and which evidence does not, thereby promoting the possibility of a settlement of this case and meeting the goals of administration of justice. It enables the State and the petitioner to know what evidence will be admissible during the trial so that the parties can intelligently resolve this matter and minimize judicial resources and time. Further, the Court of Appeal should consider the circumstances under which the statement was obtained and determine whether this was fair to petitioner. The issue is important to both the litigants and the public. *Anderson v. Florence*, 181 N.W.2d 873 (Minn. 1970); *Anderson v. Stream*, 295 N.W.2d 595 (Minn. 1980);

It also helps minimize the number of motions *in limine* to be filed in advance of trial and promote the integrity of the trial. Further, evidentiary issues regarding the admissibility of public documents like the U.S. Department of State Human Rights Report on Vietnam, can be resolved

and settled prior to trial. The petitioner would be prejudiced without immediate review. e.g., *O'Shaughnessy v. Smuckler Corp.*, 543 N.W.2d 99, 101 (Minn. App. 1996); *Larson v. New Richland Care Ctr.*, 538 N.W.2d 915, 919 (Minn. App. 1995); Unless discretionary review is granted, it will be impossible to remedy this error by an appeal, as a potential jury may have formed a negative opinion, bias and possible conclusion of guilt of the petitioner to the latter's prejudice. Regarding "Other factors the Court of Appeals finds appropriate to the issues to be reviewed, the procedural posture of the case, and other circumstances presented." *State v. Plevell*, 889 N.W.2d 584, 587-88 (Minn. App. 2017), this is a case where the Court will consider on the totality of the circumstances, based on petitioner's background, lack of education, fear of the police, psychosis, mental health, medication, absence of family and counsel, whether petitioner's statement of March 30, 2022, was made voluntarily, intelligently and willingly.

Unless the Court of Appeal allows discretionary review, the Petitioner will be denied the traditional gate keeping role of the Court in keeping away illegally obtained evidence from a jury, thus tainting the minds of jurors regarding the guilt of petitioner.

Based on extant statutes and court decisions, an appeal from a Jury decision resulting from pretrial matters is a difficult and complex task and best avoided.

Standard of Review

This Court may grant discretionary review of an otherwise non-appealable order "in the interests of justice." Minn. R. Civ. App. P. 105.01; *Gordon v. Microsoft, Inc.*, 645 N.W.2d 393, 399 (Minn. 2002) (discussing circumstances warranting immediate review under Rule 105.01 and observing that Court of Appeals should accept review "if there is a compelling reason for immediate appeal"). The case law provides that the following factors should be considered in determining whether to grant a petition for discretionary review:

- The case involves an "important legal issue that is also important to the particular

litigation.” *Doe 175 ex rel. Doe 175 v. Columbia Heights Sch. Dist.*, ISD No. 13, 842 N.W.2d 38, 47 (Minn. App. 2014) (quoting *Gordon*, 645 N.W.2d at 401-02 (Minn. 2002)); *Valspar Refinish, Inc. v. Gaylord’s, Inc.*, No. A05–1640, at 2 (Minn. Nov. 22, 2005) (Order);

- The district court holding is questionable or involves an unsettled area of the law. *Berthiaume v. Allianz Life Ins. Co. of N. Am.*, 2019 WL 7906205, at *1 (Minn. App. Oct. 1, 2019);
- Resolution of the issue presented would settle a difficult question of widespread application. *Clark v. Monnens*, 436 N.W.2d 830, 831 (Minn. App. 1989);
- “[T]he question presented is broad, troublesome and vexing to the courts,” *Price v. Amdal*, 256 N.W.2d 461, 462 n.1 (Minn. 1977) (granting review for that reason);
- The issue is important to both the litigants and the public. *Anderson v. Florence*, 181 N.W.2d 873 (Minn. 1970); *Anderson v. Stream*, 295 N.W.2d 595 (Minn. 1980);
- The petitioner would be prejudiced without immediate review. E.g., *O’Shaughnessy v. Smuckler Corp.*, 543 N.W.2d 99, 101 (Minn. App. 1996); *Larson v. New Richland Care Ctr.*, 538 N.W.2d 915, 919 (Minn. App. 1995);
- The district court ruling “places inordinate pressure on the defendant to settle.” E.g., *Doe 175*, 842 N.W.2d at 47 (quoting *Gordon*, 645 N.W.2d at 401-02 (Minn. 2002));
- “Other factors the Court of Appeals finds appropriate to the issues to be reviewed, the procedural posture of the case, and other circumstances presented.” *State v. Plevell*, 889 N.W.2d 584, 587-88 (Minn. App. 2017).

Cases that “present significant legal issues having impact beyond the particulars of the case are good candidates for discretionary review.” Eric J. Magnuson & David F. Herr, 3 Minn. Prac., Appellate Rules Annotated, § 105.4 (May 2019 update). As demonstrated below, application of the above factors to the present case weighs heavily in favor of discretionary review.

Argument

I. Petitioner was subjected to a Custodial Interrogation and deprived of his freedom in a significant way and the Minnesota Supreme Court decision in *State v. Sickles*, 275 N.W. 2D 809 (Minn. 1979) was directly applicable to defendant’s case

The questioning at a hospital before giving a defendant a warning is improper but it is not error to question a defendant at the house without first giving him a warning. *State v. Sickles*, 275 N.W. 2d 809 (Minn. 1979).

In *State v. Sickles*, 275 N.W. 2d 809 (Minn. 1979), the Minnesota Supreme Court decided that it was ***error to question a defendant both at the house and at the hospital*** during a committal without first giving a warning (emphasis added). The Court held:

1. The **questioning at the hospital before giving defendant a warning was improper but it was not error to question defendant at the house without first giving a warning**. The test in determining the need for a Miranda warning is not whether the interrogation has coercive aspects to it or whether the investigation has focused on the person being questioned but **whether the person being questioned is in custody or is deprived of his freedom of action in a significant way**. (emphasis added) *Oregon v. Mathiason*, 429 U.S. 492, (1977), *Beckwith v. United States*, 425 U.S. 341, (1976), *State v. Carlson*, 267 N.W. 2d 170 (Minn. 1978), *State v. Ousley*, 254 N.W. 2d 73 (1977)
2. **When defendant was taken to the detoxification center, he was being deprived of his freedom of action in a significant way and the officers clearly erred in failing to give him a Miranda warning before they questioned him at the hospital**. (emphasis added)

The facts of *Sickles* are on all fours with the facts of the present matter. At the time he regained consciousness, there were no family members around. However, there was a man sitting in a chair in Petitioner's room watching him, staring at him. (*Tr. Contd. Contested Omnibus Hearing*, 26, ¶ 5-20, *Addendum 121*). (*Id.* 12, ¶ 1-8, *Addendum 107*). Although this man did not wear a uniform, a gun or a badge (*Id.* 53, ¶ 17-25, *Addendum 148*) Petitioner recalled the accident and was afraid that he was going to get arrested by the man watching him. (*Id.* 26, ¶ 19-22, *Addendum 121*) A second person walked in and told the other person watching him to leave. (*Id.* ¶ 24-25), (*Id.* 27, ¶ 1-4, *Addendum 122*) Petitioner believed both persons were police officers. The first watcher left, and the second person (Officer McLain) then went on to talk to Petitioner. (*Id.* 28, ¶ 1-7, *Addendum 123*). Officer McLain never told Petitioner that he was on a hospital hold or was being detained by the hospital. (*Tr. Contested Omnibus Hearing* 31, ¶ 14-25, *Addendum 31*). Although he had the privileged information that Petitioner was under a hospital commitment hold, he did not communicate that to the latter. *Id.* No hospital employee

communicated the fact of the hospital hold to Petitioner. He had just come out of unconsciousness with his intubation and other breathing gear removed. McLain then misspoke in his statement that “I also explained that typically I would tell the person I am speaking with that they can leave. But since he had to remain at the hospital for safety concerns, if he did not want me in his room he could ask me to leave and I would.” (emphasis added) (*Addendum 168*). Yet the transcript of the officer’s recorded interview showed that the very words of the officer to Petitioner was “And typically, I would say – You’re free to leave, but obviously you’re in a hospital bed -so, if you don’t want me here, you can tell me and I will leave – if you don’t want me here.” (emphasis added) (*Addendum 173, lines 1-3*) The Officer’s repetition of the words “If you don’t want me here” to a mentally sick, uneducated, unschooled immigrant, typically afraid of all Police Officers in Vietnam and in the United States, without the benefit of family and Counsel) did intimidate and frighten Petitioner. It is not common practice for unconscious sick patients to regain consciousness and find a guard by their bedside watching them. Experience shows that such practice occurs usually in the case of injured or sick criminal defendants awaiting arrest by police.

Further, the test for determining whether a suspect was in custody is whether a reasonable person in the suspect's situation would have understood that he was in custody. *State v. Staats*, 658 N.W. 2d 207, 211 (Minn. 2003). (emphasis added) “If a suspect has not yet been arrested, a district 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 arrest.” *Id.* (quoting *State v. Miller*, 573 N.W. 2d 661, 670 (Minn. 1998)).

A reasonable person in Petitioner’s position here, would not be a typical American, born,

educated and raised in the United States with full knowledge of the democratic culture, rights and norms typical in this country. He would rather be a person with petitioner's profile – education, mental status, police experience, past police experience, language proficiency, etc. Thus, the court should find in Petitioner's favor and allow review.

II. Petitioner's Statement of 03/30/2022 obtained by Officer McLain of the Scott County Police Department while Petitioner was held by a Committal Order at the Hennepin County Medical Center was not made freely, intelligently and voluntarily as to constitute a valid waiver of defendant's Miranda rights

A confession is not voluntary if the actions of the police, combined with the circumstances, are so coercive and intimidating that the defendant is unable to make a free-will decision. *State v. Jones*, 566 N.W.2d 317, 326 (Minn. 1997). The actions of police need not be threats or deliberate intimidation to be coercive. *State v. Riley*, 568 N.W.2d 518, 525 (Minn. 1997). *In re Welfare of M.A.K.*, 667 N.W.2d 467 (Minn. Ct. App. 2003) The key question is whether the will of the defendant was overborne. *State v. Riley*, 568 N.W.2d 518, 525 (Minn. 1997). Relevant factors include defendant's age, maturity, intelligence, education, experience, and ability to comprehend. *Id.* Courts also consider the nature of the interview, including its length, the lack of or adequacy of warnings, whether the defendant's physical needs were met or ignored, and whether the defendant was denied access to friends. *State v. Zabawa*, 787 N.W.2d at 182, 183 (Minn. 2010).

In this case, petitioner's will was overborne and his statement was not voluntary. The isolation of the Hospital, absence of friends, family and Counsel, denied him all the constitutional protections of *Miranda*. Thus, his statement of 03/30/2022, was not made freely, intelligently and voluntarily as to constitute a valid waiver of his Miranda rights.

III. The Trial Court was in error when it refused to admit into evidence the 2022 Human Rights Report on Vietnam prepared by the United States Department of State when the said document qualified as a Public Record and Report and thus admissible under Hearsay Exception provision of the Minn. R. Evid. 803(8)

Minn. R. Evid. 803 (8) provides that public records and reports are admissible in evidence as exceptions to the hearsay rule.

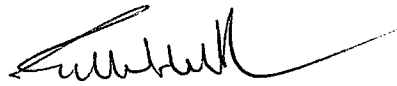
At the Suppression hearing of October 6, 2023, the court refused to admit the 2022 Human Rights Report on Vietnam” on grounds of relevancy. (*Tr. Contd. Contested Omnibus Hearing*, 40-41, (Dkt. # 27, *Addendum 135-136*). Evidence that is relevant is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Minn. R. Evid. 401. *State v. Cermak*, 2018 Minn. App. Unpub. LEXIS 514. In this case, the 2022 Human Rights report on Vietnam was relevant to petitioner’s evidence on Vietnam and his state of mind regarding the police and was wrongly rejected.

IV. Conclusion:

For all of the forgoing reasons, the Petitioner above-named respectfully requests that this Court grant this Petition for Discretionary Review.

ERIC BOND LAW OFFICE, PLLC.

Dated: February 15, 2024



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STATE OF MINNESOTA
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Respondent,

PETITION FOR DISCRETIONARY REVIEW

v.

DISTRICT COURT CASE: 70-CR-22-14898

Michael Tien Huynh

DATE OF FILING ORDER: JAN. 19, 2024

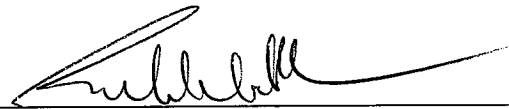
Petitioner,

PETITIONER'S CERTIFICATE OF DOCUMENT LENGTH

I hereby certify that this Petition conforms to the requirements of Minn. R. Civ. P. 105.02, for a petition produced with a monospaced font. Exclusive of the table of caption, signature block and addendum and the certificate of compliance, the length of the brief is 3997 words. This brief was prepared using Microsoft Word 365 MSO Version 2205

Dated: February 15, 2024

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FILED
DISTRICT COURT

STATE OF MINNESOTA

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT
February 15, 2024

**OFFICE OF
APPELLATE COURTS**

State of Minnesota,

File No.70-CR-22-14898

Plaintiff,

vs.

CONTESTED OMNIBUS HEARING

Michael Tien Huynh,

Defendant.

The above-entitled matter came on for hearing

before the Honorable Caroline H. Lennon, Judge of the

above-named Court, on October 6, 2023 at the Scott County

Government Center, in the City of Shakopee, County of Scott,

State of Minnesota.

APPEARANCES

Steven Kelm, Assistant Scott County Attorney,

appeared for and on behalf of the State of Minnesota.

Eric Anunobi, Attorney at Law, appeared for and on

behalf of the Defendant.

The Defendant was personally present.

ADDENDUM 1

I N D E XWITNESSES**Detective Michael McLain**

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Dr. Randy Ward

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Thao Kay Harvey

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EXHIBITS

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8A	--	30	30
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1 THE COURT: This is State of Minnesota versus
2 Michael Tien Huynh. Counsel, for the record.

3 MR. KELM: Steve Kelm for the State.

4 MR. ANUNOBI: Yes, Eric Anunobi, for the
5 Defendant. Anunobi is A as in apple, N-U-N as in Nancy
6 again, O-B-I.

7 THE COURT: We also have an interpreter present
8 for the benefit of the Defendant.

9 THE INTERPRETER: Yes, Your Honor. Lana Nguyen,
10 certified Vietnamese interpreter.

11 THE COURT: Have you been sworn today, Ms. Nguyen?

12 THE INTERPRETER: No, Your Honor.

13 (Interpreter sworn in.)

14 THE INTERPRETER: Yes, I do, Your Honor.

15 THE COURT: Thank you. All right. We're here
16 today set for contested omnibus hearing. I understand that
17 the State has a witness to present as to the statement taken
18 from the Defendant. We'll start with that evidence. You
19 may call your witness --

20 MR. ANUNOBI: Your Honor, before we go on can I
21 please discuss some housekeeping issues just before we go
22 on?

23 THE COURT: I just would like to get the officer
24 who's been waiting out of here. Is it relevant to his
25 testimony?

ADDENDUM 3

1 MR. ANUNOBI: It is -- well, it is relevant, Your
2 Honor. Yes, it is relevant, Your Honor.

3 THE COURT: Go ahead.

4 MR. ANUNOBI: Your Honor, I was going to ask that
5 in -- during the course of testimony that is going to be
6 given that the Defendant be restricted, if at all, to
7 talking about what happened during the time the statement
8 was taken and not to discuss anything about the main case.

9 THE COURT: Your client?

10 MR. ANUNOBI: Yes, Your Honor. I want -- he's
11 going to testify, but I wanted it to be narrowed down to
12 what's happened during the time he was interviewed and not
13 anything about -- the substantive case itself.

14 THE COURT: Okay. We'll address that when it's
15 time for him to testify.

16 MR. ANUNOBI: All right, Your Honor.

17 THE COURT: Mr. Kelm, why don't you call your
18 witness.

19 MR. KELM: Thank you, Your Honor. The State would
20 call Detective McLain. He's outside if I can go get him.

21 THE COURT: Sure. Come on up, officer.

22 THE WITNESS: Hello, Your Honor.

23 THE COURT: Can I have you raise your right hand.

24 Michael Leroy McLain,
25 the Witness in the above-entitled

ADDENDUM 4

1 matter, after having been duly sworn,
2 testifies and says as follows:

3 THE WITNESS: Yes.

4 THE COURT: Thanks. Have a seat. Once you are
5 settled there, give me your full name, spelling of your
6 last, please.

7 THE WITNESS: Full name is Michael Leroy McLain.
8 My last name is spelt M-C capital L-A-I-N.

9 THE COURT: Very good. And go ahead, Mr. Kelm.

10 MR. KELM: Thank you, Your Honor.

11 **DIRECT EXAMINATION**

12 BY MR. KELM:

13 Q Detective McLain, can you tell the Court where you're
14 currently employed?

15 A Shakopee Police Department.

16 Q And are you a licensed peace officer?

17 A Yes, I am.

18 Q How long have you been a peace officer?

19 A I've been licensed since 2011.

20 Q And can you briefly go over your training and experience?

21 A Well, I have a two-year degree from -- two-year associate's
22 degree in law enforcement, I have my four-year degree from
23 Concordia in criminal justice. I have been a community
24 service officer, a patrol officer in Hutchinson, a narcotics
25 agent for southwest metro drug task force, I was a school

ADDENDUM 5

1 resource officer for Shakopee, and I am currently a
2 detective and have been a detective since January of 2022.

3 Q And as part of your training to be a peace officer did you
4 have training on interviewing subjects of an investigation?

5 A Yes.

6 Q And have you had training on mental health and mental health
7 disorders?

8 A Yes.

9 Q Have you also had training on dealing with people
10 intoxicated, whether it's through alcohol or other
11 substances?

12 A Yes.

13 Q And in the time that you've been a peace officer working on
14 drug task force, school resource, patrol, detective, have
15 you had incidents where you've come in contact with people
16 that are in mental health crises?

17 A Yes.

18 Q And the same, have you had contact with people that have
19 been high on controlled substances?

20 A Yes.

21 Q And have you had contact with people under the influence of
22 alcohol?

23 A Yes.

24 Q And would you say that's something that's occurred quite
25 frequently in the years that you've been a peace officer?

ADDENDUM 6

DIRECT - MCLAIN

1 A Yes.

2 Q And were you working as a detective for Shakopee on
3 March 30th, 2022?

4 A Yes.

5 Q And at that time do you remember interviewing a Michael
6 Huynh?

7 A Yes.

8 Q And do you recall where that interview took place?

9 A Hennepin County Medical Center.

10 Q And what were you there for that day?

11 A I was there to interview an individual -- or Michael --
12 about a sexual assault that had been reported to me.

13 Q And do you recall why he was in the hospital at that time?

14 A Yes. He had -- he had been reported to me that he had
15 intentionally drove his vehicle into another vehicle trying
16 to harm himself.

17 Q And did you actually have contact with him that day?

18 A I did.

19 Q And if you saw him again would you be able to recognize him?

20 A Yes.

21 Q Is he in the courtroom today?

22 A Yes.

23 Q Can you briefly describe what he's wearing and point him out
24 to the court?

25 A I believe it looks like a yellow shirt, he's got short hair,

ADDENDUM 7

1 interpreter speaking with him.

2 THE COURT: The record will reflect the witness
3 has identified the Defendant.

4 BY MR. KELM:

5 Q And how were you able to come in contact with him that day?
6 For example, did you talk to nurses, doctors, or how did you
7 locate him?

8 A Yes, I had checked on his status when I found out that he
9 was in an accident. I'd been told that he went to St.
10 Francis and then was transferred to Hennepin County and then
11 was intubated. So I was told on the 29th, I believe that
12 was the day that the accident occurred and that was the day
13 I was going to interview him, he was suppose to come down to
14 the police department. And so I contacted them on the 30th
15 and asked if -- what his status was and they had said that
16 he'd been extubated and I asked if it was okay if I had come
17 to speak with him. I did that specifically because I didn't
18 want to drive down to Hennepin County Medical Center and not
19 be able to talk to him --

20 Q So --

21 A -- or not be able to get access to him.

22 Q So initially you were set up to interview him on the 29th?

23 A If memory recollects, yes.

24 Q And then that's the day you found out he was in a car
25 accident?

ADDENDUM 8

1 A Correct.

2 Q And so then you referenced they and them talking about
3 getting ahold of him. Are you talking about hospital staff?

4 A Yeah. Medical staff.

5 Q And so the hospital staff told you you would be able to
6 interview him?

7 A Well, they said I would have access to him, that's all I
8 wanted to know. Whether or not he was going to speak to me
9 that was up to him. So --

10 Q And so then on the 30th you did go to HCMC, correct?

11 A Correct.

12 Q And what did you do when you got to hospital?

13 A I spoke to a nurse at the front desk asking if I could --
14 letting him know I had called ahead and they knew who I was
15 and why I was there and who -- or who I was there to see and
16 they escorted me to his room.

17 Q And they said you were allowed to talk to him at that time?

18 A Yes.

19 Q And what did you see when you got to his room?

20 A Saw him in the hospital bed, eyes were open.

21 Q So he was awake at the time?

22 A Yes. I mean -- yes.

23 Q Did you see any type of equipment or anything hooked up to
24 him?

25 A I guess I wasn't paying much attention, but yeah I'm

1 guessing there was stuff hooked up to him.

2 Q Do you recall if there was anything in his mouth or nose?

3 A I don't. But I know that they had told me that he had been
4 extubated so there was nothing obstructing his mouth.

5 Q And was there anybody else in the room at that time?

6 A In the beginning I believe there was an individual that was
7 watching him. He was on a one-on-one care due to concerns
8 for self-harm.

9 Q And do you know who that person was?

10 A I do not.

11 Q Do you know if that person was a law enforcement agent?

12 A No.

13 Q And they --

14 THE COURT: No you don't know or no he wasn't law
15 enforcement?

16 THE WITNESS: Sorry. I don't believe he was law
17 enforcement.

18 THE COURT: Thank you.

19 BY MR. KELM:

20 Q And that person was not there under your direction, correct?

21 A No.

22 Q In fact you said you don't even know who that person was?

23 A Correct.

24 Q But your understanding was that that person was there to
25 make sure that he didn't harm himself; is that correct?

ADDENDUM 10

1 A Correct.

2 Q And do you believe -- when you spoke to him was he under a
3 72-hour hold at that time?

4 A I can't remember if I knew at that time that he was, but yes
5 he was. And I looked that up earlier and it was the state
6 patrol that handled that -- that accident. So --

7 Q So when you first made contact with the Defendant what did
8 you tell him?

9 A I told him that -- I identified myself, who I was, and I
10 told him that he didn't need to speak with me and since he
11 was in a hospital room and under the care of -- under
12 medical care since he couldn't leave, he could just tell me
13 to leave and I would go.

14 Q And do you recall what you were wearing that day?

15 A I do not.

16 Q Do you think you wearing a uniform or would you have been in
17 plain clothes?

18 A I would have been in plain clothes.

19 Q And did you have body camera on you at the time?

20 A I did not.

21 Q So would you say you're probably wearing something similar
22 to what you're wearing today?

23 A It's a little bit dressed down. I'm dressed up for court.

24 Q Okay. But similar in that your badge is probably on your
25 belt like that?

APPENDUM 11

1 A Yes. My badge is always on my belt unless I'm wearing a
2 longer shirt which would cover my badge, then I put it on a
3 chain and hang it around my neck.

4 Q And you would have been carrying your sidearm, correct?

5 A Yes.

6 Q And it would have been similar to what it is today?

7 A Yes.

8 Q So you wouldn't have been wearing like a duty belt or
9 anything else?

10 A No.

11 Q And so the first thing --

12 THE COURT: Excuse me. Are you gentlemen
13 witnesses?

14 UNIDENTIFIED SPEAKER: Yes.

15 THE COURT: I'm gonna have to ask that you wait in
16 the hallway. Thank you. Go ahead.

17 BY MR. KELM:

18 Q And so you stated the first thing you told him was that he
19 didn't have to talk to you, correct?

20 A Correct.

21 Q Did you read him his Miranda rights?

22 A I did not.

23 Q Why not?

24 A He wasn't in custody.

25 Q And was there any possibility while you were there that you

ADDENDUM 12

- 1 would take him into custody?
- 2 A No.
- 3 Q And is that because he was in a hospital receiving care?
- 4 A Yes. And I was going to formally put that -- in an earlier
5 report that what I notified him was that I am going to write
6 a report and formally submit it to the Scott County
7 Attorney's Office so they can review it to determine whether
8 or not they wanted to pursue -- or move forward with
9 charges.
- 10 Q And you had explained that to him?
- 11 A Not that part to him. That was said earlier to somebody
12 else, but I noted it in my report.
- 13 Q Okay. And do you recall where you were in the room?
- 14 A I was standing at the foot of the bed I believe.
- 15 Q Do you remember if you were blocking the doorway at all?
- 16 A No, the doorway would have been off to my right.
- 17 Q And you didn't disable any of the communication devices in
18 the room did you?
- 19 A No.
- 20 Q And at any time did you ever have your firearm out of its
21 holster or out of your waist area?
- 22 A No.
- 23 Q What was your -- what was the demeanor of your questioning
24 with the Defendant?
- 25 A I mean, like my tone of voice with him?

1 Q Yes.

2 A I don't know. Probably kind of like what I am right now.
3 When I interview people I'm not going to -- I don't know if
4 I'm different or not. I'm not judging the guy, I'm simply
5 trying to figure out what's happening with the story. So
6 I'm not mad at him, he didn't hurt me. I'm just trying to
7 figure it out so -- I'm not --

8 Q And so --

9 A I don't know how to describe that, but --

10 Q That's fine. Maybe to back up here, we talked about the
11 body cam video. Did you record this interview though?

12 A I did a tape recorder.

13 Q And have you had a chance to listen to that?

14 A I have not listened to it, no.

15 Q Okay. Did you have any problems with your recorder at the
16 time?

17 A I know that I noted in my report that when they brought in
18 food for him that I asked if they would shut the door
19 because there was noise coming from the hallway and I didn't
20 want it to distort the recording.

21 Q But otherwise generally it worked pretty well?

22 A I believe so.

23 Q And so during that questioning with the Defendant, did you
24 ever raise your voice or become upset with him?

25 A I don't recall. I don't think I did though. I was actually

ADDENDUM 14

1 sympathetic.

2 Q And do you remember -- did you ever threaten him about
3 anything whether it was an arrest or any other type of
4 threat at all?

5 A No.

6 Q You also said that you told him he did not have to talk to
7 you, correct?

8 A Yes. In the beginning and twice throughout the conversation
9 -- the statement.

10 Q Okay. Maybe I should back up again. When we're talking
11 about you talking to the Defendant you were actually using
12 your telephone through the language line, correct?

13 A Yes. Correct.

14 Q So you had your telephone out in front of you; is that
15 correct?

16 A Yes. I mean, if we're going to get specific I'm not sure
17 exactly, but yes it was out there.

18 Q And then you had it on speaker phone; is that correct?

19 A Correct.

20 Q And that way the interpreter could hear you and the
21 Defendant?

22 A Yes.

23 Q And so you would ask questions and she would interpret those
24 in Vietnamese?

25 A Correct.

ADDENDUM 15

1 Q And then he would answer in Vietnamese and explain to you
2 what he said?

3 A Correct. He did over that course though say some words
4 himself in English.

5 Q Okay. And so during that time you had -- what I'm saying
6 you told him that he didn't have to -- you had the
7 interpreter tell him these things, correct?

8 A Yes.

9 Q And do you recall how many times you had the interpreter
10 tell him that he did not have to speak to you?

11 A Well, there's three. One in the beginning, there was a
12 second time in there where I was telling the interpreter to
13 tell him again, like just verifying. Make sure you know
14 because -- the way I was reading him was he appeared to be
15 very ashamed. And so I -- I don't know, I felt -- kind of
16 felt sorry for the guy just, you know, to say that again
17 just remind him, make sure he knows he doesn't need to talk
18 to me. But he had -- he had then started telling me
19 something, I can't remember exactly what it was. So I don't
20 believe the interpreter had told him the second time, but
21 then there was a third time and that was a confirmation
22 where he had to respond and he responded with a yes.

23 Q And you also told him that he wasn't free to leave because
24 he was in the hospital, but you would leave; is that
25 correct?

1 A Yes. And it wasn't because I had him in custody, he was
2 there for his mental health issue, his hold. So yes I told
3 him I would leave. That was in the beginning.

4 Q And so while you were speaking to the Defendant how would
5 you describe his demeanor?

6 A Like I said, ashamed. I can't -- how I felt, like, he
7 didn't really want to make eye contact. I don't know, it
8 was just a feeling I guess. I've talked with so many people
9 in my career and my life I just kind of end up just kind of
10 reading the room, right. Reading the situation, reading
11 their responses. I understand that there is some lost there
12 with translations not being able to speak the same language,
13 but I know that's what I felt. So --

14 Q Did you during that time believe that he understood at least
15 through the interpreter what you were asking him?

16 A I did.

17 Q And did he seem to comprehend your questions?

18 A He did. He even would answer me before the interpreter
19 could interpret.

20 Q And were his answers appropriate to the questions you were
21 asking?

22 A Yes.

23 Q And in that I mean if you would ask him about "X" he would
24 respond about "X"?

25 A Yep. I asked him his name, he gave his name. I asked him

ADDENDUM 17

1 where he lived, he gave me his address. I asked him, you
2 know, who he lives with, he told me the people he lives
3 with.

4 Q And it went that way throughout your questioning with him?

5 A Yes.

6 Q Was there at any time while you were asking him questions
7 that his answers didn't make sense or did not fit the
8 questions you were asking?

9 A Not that I can recall, no.

10 Q Do you remember him saying anything strange or out of the
11 ordinary that would catch you off guard or didn't pertain to
12 what you were talking about?

13 A No.

14 Q Did he seem coherent while he was laying there in his
15 hospital bed?

16 A Yes.

17 Q And so he seemed alert and knew what was going on around
18 him?

19 A Yes.

20 Q And again, based on your training and experience you have
21 dealt with people that have been either intoxicated or under
22 the influence of different substances, correct?

23 A Yes.

24 Q And so have you had conversations with people like that in
25 the past and been able to determine they did not know what

APPENDUM 18

1 was going on around them?

2 A Yes.

3 Q And did you see any of those signs that day?

4 A No.

5 Q Was there anything at all during your entire -- actually let
6 me back up. Do you -- do you have a ballpark idea of how
7 long you were with him?

8 A I'm sorry. I do not.

9 Q If I told you 40, 45 minutes long, would that seem about
10 right?

11 A Yes.

12 Q And so during that 40, 45-minute period, was there ever any
13 point at all that he made you believe he didn't understand
14 what was going on around him?

15 A No. Not that I can recall.

16 Q And again not only have you been trained to deal with people
17 like that and you've dealt with people like that during your
18 time, but have you also been trained to recognize signs of
19 mental impairment or disfunction?

20 A Yes. I went to a CIT class, which is specifically related
21 to mental health and I've been through other trainings, but
22 that one was the longest one. That was a week long.

23 Q And did you recognize any of those signs that you were
24 taught while you were speaking to the Defendant?

25 A No. Like I said, the only thing I thought I saw was shame

ADDENDUM 19

1 and remorse.

2 Q And so the bulk of your conversation was about the crim
3 [sic] sex charge that you were there investigating, correct?

4 A Correct.

5 Q And so when you say shame and remorse, you're talking about
6 that type of crime?

7 A Right. Any sexual assault is -- it's difficult to talk with
8 victims and suspects. You're touching on difficult things
9 to talk about.

10 Q And so when you were talking to him were his eyes open the
11 entire time?

12 A I couldn't recall. I mean, he wasn't sleeping.

13 Q Yeah. So maybe put it another way, was he dozing off when
14 you were talking to him?

15 A Not that I recall, no.

16 Q And do you recall him losing focus, drifting away when you
17 were talking to him?

18 A Again, not that I recall.

19 Q Now what if while you were discussing this he started saying
20 things that were kind of off the wall or seemed to be dozing
21 off or falling asleep. What would you have done?

22 A What would I have done? If he fell asleep I would probably
23 end the conversation, I would take that as there's no reason
24 to move forward, I guess. I wasn't trying to force the guy
25 to talk to me that's why I said it three different times. I

ADDENDUM 20

1 mean, if he was like -- if he appeared like he was in pain
2 or anything like that I would have -- I would have notified
3 a nurse and discontinued and talked to him at a later time.

4 Q But none of that happened because you didn't notice any of
5 those signs?

6 A Correct.

7 MR. KELM: I have nothing further at this time,
8 Your Honor.

9 THE COURT: Cross-Examination, Mr. Anunobi?

10 MR. ANUNOBI: Yes, Your Honor. Thank you.

11 THE COURT: Go ahead.

12 CROSS-EXAMINATION

13 BY MR. ANUNOBI:

14 Q Officer McLain.

15 A Yes.

16 Q You just indicated that you had a C and T [sic] training,
17 right?

18 A CIT. Yeah.

19 Q You call it CIT?

20 A Charlie, Ida, Tom. CIT.

21 Q Okay. That was part of your training as an officer?

22 A It was -- it was one I requested to go to. It wasn't
23 mandatory.

24 Q Okay. And how long did you have this training, Mr. McLain?

25 A I wouldn't be able to tell you when I had it. I know it was

1 a 40-hour class.

2 Q It was a 40-hour class?

3 A Correct.

4 Q Over what period of time?

5 A Are you talking about -- I just said I don't know when I
6 took it. I don't remember, but I had training records if we
7 need that.

8 Q No, I guess my question is just simple. Did you have this
9 40-hour training over a one-week period or from day-to-day?
10 How did you have this training?

11 A It was one week, yeah.

12 Q It was in one week?

13 A Yeah.

14 Q That means that you probably spent about eight hours a day,
15 is that fair to say --

16 A Yes.

17 Q -- on this training? What does this CIT training deal with?

18 A Well, it's -- it's how to talk to people or recognize signs
19 of impairment, mental health primarily, and how to
20 deescalate the situation so that you don't have to use
21 force.

22 Q What kind of mental health?

23 A Well, I mean, you know, bipolar, schizophrenia, host of
24 different -- anything that would probably alter the mood.
25 It's to try to help us to get to understand and recognize

ADDENDUM 22

1 the difference between someone that is under the influence
2 of a substance versus someone who is struggling with mental
3 health. Like hearing voices or -- or, you know, dementia,
4 not understanding.

5 Q So essentially your training had to do more with people
6 under the influence of substances? What are you trying to
7 say?

8 A No because every one of the scenes that I role played were
9 mental health related.

10 Q No, I'm asking there are different kinds of mental health.
11 I'm asking specifically about people under the influence of
12 substances like drugs, like alcohol, were they the kind of
13 people -- were they the kind of training that was covered by
14 this?

15 A Alcohol, drugs, and mental health.

16 Q So essentially you did not do any training about people that
17 were psychotic or people that had very serious mental health
18 issues?

19 A Oh, no. There was definitely mental -- very serious mental
20 health issues, yes.

21 Q Okay.

22 A Yep.

23 Q Are you able to identify -- are you able to identify by an
24 outward appearance when somebody has a mental health issue
25 from your training?

ADDENDUM 23

1 A If I talk to them long enough I can tell whether or not
2 there -- there's something wrong, yes.

3 Q In this case --

4 A Can I diagnose it? No.

5 Q Okay. You cannot diagnose it?

6 A Nope.

7 Q In this case you spoke to Mr. Huynh from your statement for
8 about 40 minutes. Were you able to -- to -- I mean, 40
9 minutes was that period of time enough for you determine
10 whether somebody was mentally impaired?

11 A Yeah, I mean, if it's -- if they're having an episode or
12 something. If it's something that's being controlled by
13 medications and it's not rearing its head so to speak, then
14 maybe not. But I have to assess situations very quickly in
15 my job. I don't have hours, days at a time to assess an
16 individual. I have short periods of time to assess an
17 individual and figure it out and that can be very, very
18 short. I'm talking minutes.

19 Q And so it is quite possible that in this case the Defendant
20 could have had some mental health situations that you could
21 not determine in your position --

22 A Yep.

23 Q -- with the interview, correct? You see that, right?

24 A I said yes. Yep.

25 Q Okay. Now, Officer, I'm going to go into some of the things

ADDENDUM 24

1 you have just said. First of all -- but before I go there
2 I'm going to ask you about your training. Officer, how long
3 have you been a detective?

4 A I've been a detective since January of 2022.

5 Q And what do -- and would this be in Shakopee?

6 A Yes.

7 Q And -- okay. As a detective what does your training entail?

8 A Well, that's -- that's not just trainings that I've taken
9 since I've been a detective. I also knew I wanted to be a
10 detective so I took trainings prior to that. There's
11 interview and interrogation, there's search warrant writing,
12 there's crime scene processing, a host. I have a training
13 folder. I've been to a lot of different trainings.

14 Q Okay.

15 A Even when I was a narcotics agent that's considered a
16 detective or investigations position so some of those
17 courses relate to being a detective.

18 Q As a detective have you ever, ever interviewed anybody
19 that's had a mental health problem -- I mean outside of
20 drugs and alcohol -- have you ever interviewed anybody who
21 was undergoing psychiatric treatment in a hospital?

22 THE COURT: I think that was about three different
23 questions.

24 MR. ANUNOBI: Okay.

25 THE COURT: So have you ever interviewed somebody

ADDENDUM 25

1 who you think had mental health issues?

2 THE WITNESS: Yes.

3 THE COURT: Have you ever treated someone who was
4 being actively treated in a mental health crisis in a
5 hospital?

6 THE WITNESS: I don't believe so, but I'm not sure
7 either.

8 THE COURT: Okay.

9 MR. ANUNOBI: Okay. Thank you, Your Honor. I
10 really appreciate it.

11 THE WITNESS: I've talked to a lot of people in
12 12 years.

13 BY MR. ANUNOBI:

14 Q Okay. Now, Officer McLain, you are not a psychiatrist?

15 A You're correct.

16 Q And you don't have any kind of psychiatric training?

17 A What -- what are you -- what are you entailing there? I
18 mean --

19 Q The way --

20 A -- I'm not -- like I said, I can't diagnose things. I can
21 visually see signs.

22 Q Okay. You are not a nurse?

23 A I am not a nurse, you're correct.

24 Q You have not received any kind of training -- well, you've
25 just said you're not able to diagnose when people have

ADDENDUM 26

1 psychiatric problems.

2 A Yes, I can. I mean, like I said I can't diagnose it.

3 Q Okay. And you're not a EMT specialist, for example?

4 A An EMT specialist?

5 Q Yes.

6 A I am not an EMT --

7 Q What I mean is that you didn't do EMT training?

8 A I did actually do EMT training, but I am not EMT. I am an
9 EMR, emergency responder.

10 Q Okay.

11 A But my original schooling when I went to school to be a
12 firemen it was an EMT class that I took.

13 Q Okay. And as -- well, when you did your EMT classes --

14 A Mm-hmm.

15 Q -- you did not deal with anything involving someone who had
16 psychiatric problems?

17 A That was back in 2004 or '5. I don't remember --

18 Q Okay.

19 A -- that far.

20 Q Okay. Okay. Now you indicated while you were testifying
21 that you told Defendant he did not need to speak to you.

22 A Yes.

23 Q And you said you told him that because he was not free to
24 leave, correct? Okay. Sorry. Let me rephrase the question.
25 I'm sorry. I'll rephrase it.

ADDENDUM 27

1 A Okay.

2 Q You told Defendant from the statement you said -- you told
3 him that nobody would have allowed him to leave, but that he
4 was under hold by the hospital?

5 A I said since he can't leave the hospital because he's under
6 medical training that he could just tell me to leave since
7 he wasn't able to leave the hospital.

8 Q Officer, do you realize that from your statement you never
9 told him he was not free -- you never told him that he was
10 not free to leave because of the hospital?

11 A Can I refer --

12 THE COURT: I'm sorry. That was a double negative
13 in there. Are you saying the officer told the Defendant he
14 was not free to leave?

15 MR. ANUNOBI: The officer told the Defendant he
16 was -- the officer did not tell the Defendant he was not
17 free to leave.

18 THE COURT: You did not tell him that he was not
19 free to leave?

20 THE WITNESS: I'm -- I guess I'm struggling.

21 THE COURT: Did you ever tell him he wasn't free
22 to leave?

23 THE WITNESS: Hold on -- can I read from my
24 report, Your Honor? I want -- because I want to --

25 THE COURT: Refresh your memory and then you can

ADDENDUM 28

1 testify from it. You can't read to me from it.

2 THE WITNESS: Okay. Okay. I had explained to him
3 that typically I would tell people in that manner, you know,
4 you don't to have to talk to me and you are free to leave,
5 but since he had to stay in the hospital for safety concerns
6 if he didn't want me in his room he could ask me to leave.

7 BY MR. ANUNOBI:

8 Q Okay. That was your -- that was what you summarized in your
9 reports?

10 A Correct.

11 Q Okay. Officer, would it surprise you to know that in your
12 actual interview you never told him any of these things? In
13 your actual interview which is an exhibit here which is
14 already -- which we've already submitted, you said to him,
15 "first and foremost I want to tell you that you don't have
16 to talk to me." You never told him anything about his
17 leaving. Would that surprise you?

18 A It would because I have a pretty routine way of doing things
19 and when I do my statements, the reason this -- my reports
20 are 23 pages long for this case is because I relisten to my
21 statements and type not word-for-word you're correct, but I
22 listen to statements as I read my reports.

23 Q Okay.

24 MR. ANUNOBI: And, Your Honor --

25 BY MR. ANUNOBI:

ADDENDUM 29

1 Q Well, Officer, I'm going draw your attention to the
2 transcript of your statement.

3 A Okay.

4 Q I'm going to ask you to look at it.

5 A Yeah.

6 Q And tell what I just --

7 THE COURT: Counsel, you're going to need to mark
8 that first and refer to it by its exhibit number, please.

9 MR. ANUNOBI: Yes, Your Honor. At this stage I
10 want to show to the officer what has been premarked for
11 identification purposes Exhibit 8A.

12 THE COURT: I am sorry exhibit what?

13 MR. ANUNOBI: 8A. "A" as in apple, Your Honor.

14 THE COURT: Eight. Got it. Exhibit 8, as in the
15 number 8, not the letter.

16 MR. ANUNOBI: Yes.

17 THE COURT: Exhibit 8 is the transcription of the
18 statement with Defendant on December -- March 30th of 2022,
19 correct?

20 MR. ANUNOBI: Yes, Your Honor.

21 THE COURT: And you've agreed to that, Mr. Kelm?

22 MR. KELM: Yes, Your Honor.

23 THE COURT: 8 is received.

24 MR. ANUNOBI: Your Honor, may I approach the
25 witness?

ADDENDUM 30

1 THE COURT: You may.

2 BY MR. ANUNOBI:

3 Q I'll give you time to look at it and then I'll ask you.

4 A Okay.

5 Q On page two of that document on the top paragraph.

6 A Mm-hmm. Yes.

7 Q You said, "And typically I would say you are free to leave,
8 but obviously you're in a hospital bed. So if you don't
9 want me here you can tell me and I will leave if you don't
10 want me here."

11 A Okay.

12 Q Would that be correct?

13 A Yeah, if --

14 Q So you never told the Defendant he was on a hold by the
15 hospital. You never told him that he was on a hold.

16 A Because I didn't put him on a hold.

17 Q I'm sorry.

18 A Because I didn't put him on a hold.

19 Q I know, but you never told him that he was being detained by
20 the hospital?

21 A No.

22 Q That's what I'm just trying to ask.

23 A Yeah.

24 Q Okay.

25 A Yeah.

ADDENDUM 31

1 Q Now -- okay. Officer, I'm going to ask you in addition at
2 the time that you -- before you interviewed the Defendant
3 you contacted -- you were -- well, you were advised that
4 Defendant was involved in an accident, correct?

5 A Right.

6 Q And that was on March 29th, correct?

7 A I believe so, yes.

8 Q Okay. And when you understood this, about what time did you
9 get to know that he had an accident? Do you have an idea
10 about when you heard about this?

11 A I believe it was shortly after I got out of interviewing his
12 girlfriend.

13 Q Would that be in the morning hours?

14 A Yes.

15 Q Okay. And when you got that information was it from your
16 department?

17 A Yes. An officer in my department.

18 Q Okay. And then you contacted Hennepin -- by the time you
19 got the information you contacted Hennepin County Medical
20 Center; is that correct?

21 A I don't remember exactly how I found out, but I figured out
22 that he was at Hennepin County, yep, and then I contacted
23 them.

24 Q Well, your report says that you contacted them. So I assume
25 that you contacted them.

ADDENDUM 32

1 A Yeah. I don't know if you're trying to get, like, the route
2 that I got to that point, but yes --

3 Q Okay.

4 A -- I eventually called them yes.

5 Q And would it be correct to say you called them in the
6 morning hours?

7 A I don't -- I don't know. I have no idea what time.

8 Q And then when you called Hennepin County they told you that
9 he was unconscious; is that fair to say?

10 A I don't know.

11 Q They also told you that he -- you don't know? I'm going to
12 refer to your report if you want me to.

13 A That's fine.

14 Q Okay. Okay. Could you --

15 A I believe they told me he was intubated.

16 Q Yes.

17 A And that's why I didn't go see him that day.

18 Q Okay. So they told you he was intubated?

19 A Yes.

20 Q Okay. And that's what I'm asking. And they -- okay.
21 That's fine. And they told you they were transferring him
22 to the surgical intensive unit?

23 A Right.

24 Q Okay. And they told you he was unconscious?

25 A If you want to refer to my report and I said that he was

ADDENDUM 33

1 unconscious.

2 Q Yes.

3 A I don't recall that, but --

4 Q Okay. I want you to look at the reports you made on
5 March 30th. It's dated March 30th, those are the reports
6 that you made on March 30th.

7 A You're talking about when I got the statement from him?

8 Q No. No. No. Before you got the statement from him.

9 A I'm allowed to refer to my report then? March 30th.

10 THE COURT: You may.

11 THE WITNESS: Thank you. Okay. Where am I going?
12 It's 23 pages long.

13 BY MR. ANUNOBI:

14 Q Yes. I'm going to look at pages 20 of 26.

15 A Mine's not in that order. So --

16 Q I'll give you a copy of mine, if you'd like.

17 THE COURT: Counsel. If you just approach the
18 witness and show him where you're referring to we don't have
19 to be overly formal this is a --

20 MR. ANUNOBI: Okay, Your Honor. Thank you.

21 BY MR. ANUNOBI:

22 Q So on that page, Officer, it was -- you indicated that --
23 okay. I am looking at -- in a way you said, after the
24 interview was over that's page 26 it's said, "After the
25 interview was over, I advised -- I was advised Michael had

ADDENDUM 34

1 been involved in a car accident on Highway 169 and Marshall
2 Road."

3 THE COURT: Mr. Anunobi, we can't understand you.
4 You can't read so fast and with your face down. So rather
5 than read from the report could you just please ask the
6 witness a question?

7 MR. ANUNOBI: Okay. Yes, Your Honor, I will do
8 that.

9 BY MR. ANUNOBI:

10 Q Officer McLain, looking at this report do you agree that you
11 were told that he was unconscious?

12 A It says, "he is believed to have lost consciousness."

13 Q Okay.

14 A "And then struck another vehicle."

15 Q Okay. And so --

16 A He was conscious it sounded like after the accident because
17 he was trying to strangle himself with a cord.

18 Q Okay. But you went to Hennepin County, that's in here in
19 this information. You proceeded straight to Hennepin
20 County, is that fair to say?

21 A It looks like I did, yes.

22 Q Okay. And when you went to Hennepin County, when you got
23 there you asked to see Mr. -- you asked to see the
24 Defendant, right?

25 A Looks like I did, yeah.

ADDENDUM 35

1 Q And when you asked to see him, you knew he was not conscious
2 at the time?

3 A Well, I don't -- not conscious or sleeping I don't know. I
4 mean, I don't know what --

5 Q He wasn't awake when you saw him?

6 A Okay. Correct.

7 Q Okay. So when you went to see him when he was not awake,
8 you actually went and took a photograph of the mark on his
9 neck?

10 A Yes, I did.

11 Q While he was sleeping?

12 A Yes.

13 Q And to do that you had to probably remove clothing from him
14 to be able to --

15 A No. I did not touch him.

16 Q And you uploaded a photograph to your file?

17 A Say what?

18 THE COURT: And you what?

19 BY MR. ANUNOBI:

20 Q You uploaded that photograph to your file?

21 A Correct. I would assume I did, yes.

22 Q You didn't need consent to take that photograph?

23 A I'm not sure if I did.

24 Q Did you?

25 A I don't -- I said I'm not sure if I did.

ADDENDUM 36

1 Q Okay. At the time you went to see the Defendant, that was
2 the day before you interviewed him?

3 A Right.

4 Q Immediately after the accident while he was still intubated.
5 At that time did you know there was a 72-hour hold on him?

6 A Yes, I didn't put it on him, but there had been a 72-hour
7 hold. I knew that, yeah.

8 Q And you knew that that hold was on him because he was not
9 mentally competent?

10 A I can't speak to that.

11 THE COURT: That's a legal conclusion, Counsel.

12 MR. ANUNOBI: All right.

13 THE COURT: A 72-hour hold is merely that; just a
14 hold. It's not a judgment.

15 MR. ANUNOBI: Yes, Your Honor.

16 THE COURT: Okay.

17 BY MR. ANUNOBI:

18 Q Okay. And so the next morning you proceeded back to
19 Hennepin County to go to interview the Defendant?

20 A Yes.

21 Q And at the time you went to interview the Defendant you had
22 called in and were told that they had just removed the tubes
23 from the Defendant?

24 A Is that exactly what I said?

25 Q I'm just asking you.

- 1 A And I'm asking you, is that exactly what I said?
- 2 Q No, I'm cross-examining you, that's why I want to -- I'm
- 3 testing the accuracy of your statement.
- 4 A You're going to say "just" like they literally just pulled
- 5 it out of his throat. I don't know.
- 6 Q Okay. I'll rephrase the question. Before you go -- before
- 7 you go to Hennepin County, how long before you go there had
- 8 they removed the tubes from him?
- 9 A I don't know.
- 10 Q You don't know? What time did you get to Hennepin County on
- 11 March 30th?
- 12 A I do not remember and I know I don't note times. So -- just
- 13 days.
- 14 Q Okay. Would it be correct to say that you went there in the
- 15 morning of March 30th?
- 16 A I can't speak to that. I don't know. I don't remember.
- 17 Q Okay. And when you got to the nurses station of course you
- 18 activated your tape recorder?
- 19 A Yes.
- 20 Q That was before you got into his room?
- 21 A Yep.
- 22 Q Okay. When you got into his room you saw a man guarding the
- 23 Defendant?
- 24 A I don't know if I would have called it guarding. Someone
- 25 there to monitor somebody so they don't hurt themselves. I

ADDENDUM 38

1 don't know -- you use that word. I see a guy that's
2 monitoring someone for health and safety.

3 Q When you got into the room there was a man in the
4 Defendant's room?

5 A Yes.

6 Q And the man was watching the Defendant?

7 A He was sitting in a chair, yep.

8 Q Was he reading a newspaper?

9 A What's that?

10 THE COURT: I'm sorry.

11 BY MR. ANUNOBI:

12 Q Was he reading the newspaper?

13 A A newspaper? I don't remember that.

14 Q He was watching the Defendant is my question? Is it correct
15 to say --

16 A I don't remember that. I wasn't paying attention to that.

17 Q You asked the man to leave?

18 A I don't know if I did. If I did it's probably because it's
19 a personal matter and I didn't feel like his laundry should
20 be aired to someone that's not related to the case. But I
21 don't remember if I asked him to leave or if he just left
22 because there was a police detective in there.

23 Q Okay. Officer, I am going to ask you to refer to your
24 report of March 31st. Could you look at it, please, for a
25 minute?

1 A We're going back to that same thing. Which page?

2 Q I'm sorry. That's page 22 of 26. And I can give you --
3 well, I think I gave you that document. Page 22 of 26. It
4 was on the document. I gave you that document.

5 A It's on the transcript is what you're saying?

6 Q It's not -- it's your own report, it's not the transcript.

7 THE COURT: Counsel, his numbering is different
8 than yours is.

9 MR. ANUNOBI: Oh.

10 THE COURT: So you'll need -- as we just reviewed
11 -- you need to just show him where you are in the report to
12 make this easier.

13 MR. ANUNOBI: Okay. Yes, Your Honor. I will do
14 that. May I approach the witness, Your Honor?

15 THE COURT: You may assume -- yes.

16 THE WITNESS: Is there a specific sentence you
17 want? Do you want me to read this whole --

18 MR. ANUNOBI: No -- well, okay. That's fine.

19 BY MR. ANUNOBI:

20 Q Okay. That's fine. From, "when I arrived at the nursing
21 station."

22 A Okay.

23 Q Okay. So back to my question, you asked the man to leave.

24 A I don't state that in my report, but if it's on the
25 recording then I did. Like I said, I don't remember if I

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1 asked the male to leave the room.

2 Q Okay. I'll go on. I'll move on. Now -- okay, Now you sat
3 close to the Defendant by his -- you sat close to the
4 Defendant by his bed at that time you were there. Is that
5 correct to say?

6 A Like I said I thought I was standing, but maybe I was
7 sitting. I'm not sure. Sorry.

8 Q I would say you sat close to him, that's what I said. You
9 sat down close to him.

10 A And I said I don't remember if I was standing or sitting.

11 Q Okay. Do you remember -- you placed your tape recorder by
12 the Defendant?

13 A I don't remember that portion.

14 Q Now you started speaking to the Defendant in English?

15 A Yes, I did.

16 Q But because he could not understand you, you felt the need
17 to call an interpreter?

18 A Correct.

19 Q Okay. You didn't use your cell phone -- you used your cell
20 phone to dial the interpreter?

21 A Yes. My work cell phone.

22 Q Yes. And then when you dialed the interpreter you were --
23 you were talking to the interpreter and the interpreter was
24 interpreting to the Defendant and it was through your cell
25 phone. In other words the call was through your cell phone?

ADDENDUM 41

1 A Yes.

2 Q And some of the time it is correct to say that the Defendant
3 would not understand what you were saying or what the
4 interpreter was saying? So --

5 A Well, he responded to the things that I was telling the
6 interpreter before the interpreter could say things to him.
7 So I think it's fair to say that he understood some of the
8 things that I was saying.

9 Q There were times during the interview that the Defendant
10 would pause and then you would interject and ask him to
11 answer the question?

12 A Say that again.

13 Q Okay. There were times you would talk to the interpreter
14 and the interpreter would translate to the Defendant and
15 Defendant would say nothing and then there would be a pause
16 for a while in other words --

17 A Yes.

18 Q -- during the interview there were pauses from the
19 Defendant?

20 A Yes, there was.

21 Q And during those long pauses you would be the one to ask him
22 to answer the question?

23 A That's the shame that I saw. Those pauses, that's the
24 reason I asked him again, twice. Now remember I said that
25 he would answer questions that I asked the interpreter

1 before the interpreter could interpret it to him. So
2 there's two times during the interview at those pauses that
3 I felt like he was so full of shame and it was a very
4 difficult topic to talk about -- at least this is what I'm
5 seeing and this is what I thought -- and that's why I asked
6 him again if he wanted to talk to me or if he wanted to
7 leave. That's stated in my report.

8 Q And that was your -- that was your thoughts?

9 A You're right. It's my perception. That's why I said it.
10 That's why I prefaced that.

11 Q Is it possible -- it is possible that the Defendant did not
12 immediately respond because he could not comprehend what was
13 being said?

14 A I guess anything's possible, right?

15 THE COURT: Did you have any reason to think
16 that --

17 THE WITNESS: No.

18 THE COURT: -- the pauses were the result of him
19 not understanding?

20 THE WITNESS: No, I did not, Your Honor.

21 THE COURT: Okay.

22 BY MR. ANUNOBI:

23 Q At the time you interviewed the Defendant the accident had
24 happened just 24 hours before the interview or less than
25 that.

ADDENDUM 43

1 A Okay.

2 Q Correct?

3 A I don't know the timeline, but yep, probably.

4 Q And at that time you interviewed the Defendant, like I said
5 earlier, he was -- he had come out of a coma. He had come
6 out of an unconscious state.

7 A Unconscious. Sleeping. I don't know.

8 Q Okay.

9 THE COURT: Okay. Counsel, let's -- let's take a
10 time out here. I understand you have medical folks coming
11 --

12 MR. ANUNOBI: Yeah.

13 THE COURT: -- who are going to be able to tell us
14 whether or not the Defendant was unconscious or intubated or
15 in an induced coma. I think we've clearly established that
16 this witness doesn't know those answers. Can we possibly
17 get that information from someone who does know?

18 MR. ANUNOBI: Yes, we will, Your Honor.

19 THE COURT: I think that might be more effective.

20 MR. ANUNOBI: I believe so, Your Honor.

21 THE COURT: Let's move on.

22 MR. ANUNOBI: Thank you.

23 BY MR. ANUNOBI:

24 Q Now, Officer, at the time you interviewed the Defendant he
25 was exhausted, he appeared weak and exhausted.

1 MR. ANUNOBI: Okay. That's fine, Your Honor.

2 That's fine.

3 BY MR. ANUNOBI:

4 Q Officer, before -- at the time you interviewed the
5 Defendant, there were none of his friends or relations that
6 were in the room, just you?

7 A Yeah, I believe it was just me.

8 Q Okay. Now you did not advise the Defendant that he had a
9 right to remain silent?

10 A I told him he did not need to speak with me and he could ask
11 me to leave and I would leave.

12 Q My question is you did not advise him that he had a right to
13 remain silent?

14 THE COURT: Counsel, we've been through this.

15 THE WITNESS: He was not in custody.

16 THE COURT: He was not in custody, there was no
17 Miranda warning. We've gone over this several times.

18 MR. ANUNOBI: Okay.

19 THE COURT: Is there some new information that
20 you're seeking?

21 MR. ANUNOBI: At this stage that is all for the
22 witness, Your Honor.

23 THE COURT: Is there an intention to offer the
24 actual recording?

25 MR. ANUNOBI: Yes. I'm sorry. I forgot that.

1 Your Honor, I want to offer the record -- audio recording of
2 the interview into evidence.

3 THE COURT: All right. That's Exhibit 8 and I
4 believe that's been uploaded to MNDES.

5 MR. ANUNOBI: Yes, Your Honor.

6 THE COURT: I'll receive Exhibit 8 which is the
7 recording. Any objection by the State?

8 MR. KELM: No objection, Your Honor.

9 THE COURT: Very good. Anything else from Officer
10 McLain -- excuse me, Detective McLain, Mr. Kelm?

11 MR. KELM: Just very briefly, Your Honor.

12 THE COURT: Go ahead.

13 **REDIRECT EXAMINATION**

14 BY MR. KELM:

15 Q Detective McLain, you were asked about going to see the
16 Defendant the day before you questioned him on the 29th,
17 correct?

18 A Yes.

19 Q And you did not interview him that day, correct?

20 A Yes, you're correct. I did not.

21 Q Why did you not interview him that day?

22 A If I recall correctly he was intubated. I don't think I
23 could.

24 Q And so when you interviewed him on the 30th was he in a
25 completely different condition?

1 A Yes.

2 MR. KELM: Nothing further, Your Honor.

3 THE COURT: Anything else, Mr. Anunobi?

4 MR. ANUNOBI: Nothing else, no.

5 THE COURT: Thanks, Detective, you can step down.

6 THE WITNESS: Do you want me to leave these here,
7 Your Honor?

8 THE COURT: Yes, please.

9 THE WITNESS: Those are theirs, these are mine.
10 (Indicating.)

11 THE COURT: You can have yours. We will let you
12 take that.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: All right. Anything further on behalf
15 of State?

16 MR. KELM: No, Your Honor.

17 THE COURT: All right. I note there's been a
18 couple of witnesses --

19 MR. ANUNOBI: Your Honor, I believe I have Dr. --
20 Dr. Heath and Dr. Randy Ward.

21 THE COURT: All right. Why don't you go ahead and
22 call your first witness. Good afternoon. I will have you
23 pause right there for a moment and raise your right hand.

24 RANDY WARD,

25 the Witness in the above-entitled

ADDENDUM 47

1 matter, after having been duly sworn,
2 testifies and says as follows:

3 THE WITNESS: I do.

4 THE COURT: Thanks. Have a seat. Once you're
5 settled there, can you give me your full name, spelling your
6 last.

7 THE WITNESS: Sure. Randy, R-A-N-D-Y, middle
8 initial K, Ward, W-A-R-D.

9 THE COURT: All right. And you're a doctor?

10 THE WITNESS: MD.

11 THE COURT: MD. I'm going to have you move up,
12 Doctor, a little bit closer to that microphone.

13 THE WITNESS: Oh, sure.

14 THE COURT: And I'll let you go ahead with your
15 questioning, Mr. Anunobi.

16 DIRECT EXAMINATION

17 BY MR. ANUNOBI:

18 Q Yes, good afternoon, sir.

19 A Good afternoon.

20 Q And what is your profession?

21 A I'm a psychiatrist. I'm a director of consultation liaison
22 psychiatry at Hennepin County Medical Center.

23 Q Okay. You're a medical doctor?

24 A Yes.

25 Q Okay. So how long have you been a medical doctor, Doctor?

1 A Since '87, however long that is. It's a long time.

2 Q Okay. And where did you receive your training?

3 A Northwestern University Medical School.

4 Q Okay. And did you have any kind of postgraduate training?

5 A Yes.

6 Q Okay. Where would that be?

7 A It was at Northwestern University Medical School. I did
8 general psychiatry, geriatric psychiatry, and an extra year
9 of internal medicine there, and I also did family medicine
10 residency through the Rush University system.

11 Q Okay. And, Doctor, are you board certified?

12 A Yes.

13 Q And could you explain to the Court what board certification
14 requires?

15 A You take your -- after you finish residency, which in
16 psychiatry is four years, then you take a written exam. And
17 we used to have to take oral exam, but they did away with
18 that and then you have to take certain classes on a regular
19 basis to maintain certification, unless you are board
20 certified before a certain time.

21 Q Okay. And you're licensed in Minnesota, right?

22 A Yes.

23 Q Are you licensed in any other jurisdiction?

24 A No.

25 Q Okay. And you have -- do you have diplomates in any other

1 speciality?

2 A Yeah. I'm boarded in general psychiatry and family medicine
3 and then I'm subspeciality boarded in behavioral neurology
4 and neuropsychiatry and consultation liaison psychiatry.

5 Q Okay. Can you explain what psychiatry deals with?

6 THE COURT: I -- I think we can go past that.

7 MR. ANUNOBI: Okay. That's fine.

8 THE COURT: I'm pretty sure I know that one.

9 THE WITNESS: That would take a long time.

10 BY MR. ANUNOBI:

11 Q Doctor, I was going to ask you whether you have any academic
12 appointments?

13 A I'm not --

14 Q I'm just -- I'm just -- okay.

15 THE COURT: We don't need this.

16 MR. ANUNOBI: All right. That's fine.

17 BY MR. ANUNOBI:

18 Q Okay. Doctor, before we came to the court today you
19 provided a copy of your CV?

20 A Yes.

21 Q Curriculum vitae. And if you see a copy of it will you
22 recognize it?

23 A Pardon?

24 Q If you see a copy of it --

25 THE COURT: You can just offer it.

ADDENDUM 50

1 THE WITNESS: Yeah. I know what I sent. I don't
2 think --

3 MR. ANUNOBI: Okay. That's fine. Your Honor,
4 it's already in evidence -- it's already part of stipulated
5 evidence. All right.

6 THE COURT: Very good. What number is it?

7 MR. ANUNOBI: I'm sorry?

8 THE COURT: What exhibit number?

9 MR. ANUNOBI: Exhibit Number 4 -- 6. Exhibit
10 Number 6, Your Honor. 6.

11 THE COURT: Very good. Any objection?

12 MR. KELM: No objection, Your Honor.

13 THE COURT: 6 is the CV of Dr. Ward and it's
14 received. Go on, please.

15 BY MR. ANUNOBI:

16 Q Dr. Ward, do you -- do you know Mr. Michael Huynh?

17 A I --

18 Q Defendant.

19 A -- encountered him as a patient at Hennepin County Medical
20 Center.

21 Q So you had cause to examine him, correct?

22 A Yes.

23 Q Okay. Under what -- under what circumstances did you
24 examine him? What led to your examination of Mr. Huynh?

25 A I was consulted by the surgical team to evaluate him for

1 suicidal ideation.

2 Q Okay. And was there anything else apart from suicidal
3 ideation?

4 A That was the consultation question.

5 Q Okay. And when you did examine him you indicated your
6 findings on a record?

7 A Yes.

8 Q And those findings are part of medical records, right?

9 A Yes.

10 Q Okay. I'm going to show you some -- well, okay. Before I
11 do that I'm going to go ahead and ask you some questions.

12 A Mm-hmm.

13 Q What were your findings of Mr. Huynh when you examined him?

14 A Well, you know, just in terms of a brief diagnosis it was
15 depression unspecified and suicide attempt.

16 Q Okay. Now from your experience you have seen this kind of
17 situation before? Would that be correct to say? Have you
18 seen this kind of situation before?

19 A Well, I have seen patients who are suicidal and I've seen
20 patients who try to commit suicide and I've seen patients
21 who are depressed.

22 Q Okay. And then is it also correct to say that when you
23 examined him that there was a finding of mental illness?

24 A Well, that's, you know, depression unspecified is a
25 diagnosis in the DSM-5.

ADDENDUM 52

1 Q Okay. And as part of this diagnosis did you also find that
2 he had any mood disorder?

3 A Well, that's what mood disorder unspecified is. You know, I
4 can go on a little bit. You know, there was this situation
5 where there had been this event, you know, the accident and
6 we were to come in after he was somewhat stabilized and
7 would agree to talk to us and, you know, assess. Yeah it
8 was -- did he appear depressed at the time and was he
9 actively suicidal?

10 Q Okay. Now, you made a report as part of a process to obtain
11 a judicial commitment of Mr. Michael?

12 A Yes, I did.

13 Q Okay. And in this report that was made, it relied
14 essentially on your statements, correct?

15 A Yes.

16 Q The reports relied on your statements?

17 A Yes.

18 Q Okay. And before you made the statement you had examined
19 the Defendant, right?

20 A Yes, I -- that's all part of filling out an -- civil
21 commitment papers. You put the salient parts of the mental
22 status exam generally for psychiatry.

23 Q Okay. At the time you examined the Defendant, did you find
24 that he was psychotic?

25 A At the time we initial -- the first time we went to see him

ADDENDUM 53

1 I think it was on the 30th, he didn't -- he didn't want to
2 speak to us. The second time we went and saw him -- and
3 when I say we I mean my medical student with me, we see the
4 patients together -- and he made a statement that he had
5 voices before the accident telling him to kill himself.

6 Q Okay.

7 A And I don't believe he was having them at the time we talked
8 to him.

9 Q And what time did you talk to him?

10 A I don't know. I'd have to look at my records. Want me to?
11 I have them here.

12 Q Yes, please.

13 MR. ANUNOBI: To refresh his memory, Your Honor.

14 THE COURT: Are you planning to offer these?

15 MR. ANUNOBI: Your Honor, the record already --
16 well, the records are part of the evidence.

17 THE WITNESS: These are copies I made of consult
18 sheets that we did.

19 THE COURT: You're totally fine, Doctor. What
20 exhibit is that, Counsel?

21 MR. ANUNOBI: Your Honor, I'm talking about
22 Exhibit 2.

23 THE COURT: Very well. Exhibit 2 is the medical
24 record from HCMC stay. Any objection, Mr. Kelm?

25 MR. KELM: No objection.

ADDENDUM 54

1 THE COURT: 2 is received.

2 MR. ANUNOBI: Your Honor, may I approach the
3 witness, please?

4 THE COURT: You may and you don't have to ask for
5 permission, but I would like you to start giving me the
6 received exhibits to the Court.

7 MR. ANUNOBI: Yes, Your Honor.

8 THE COURT: At some point. Okay. Great.

9 BY MR. ANUNOBI:

10 Q I'm talking about this document. Yeah.

11 A Would you like me to comment on what this is or --

12 THE COURT: He wants to know what time you saw
13 him.

14 THE WITNESS: Oh, I've got that right here. The
15 first time we tried to see him was at 3:30 and this is
16 roughly when the -- I believe it was in the morning, but the
17 note was done at 1:00 p.m. and at that time he did not want
18 to meet with us. And so we said we'd come back the next
19 day, the next note is 3:31 and again that is written at
20 11:00, we probably saw him an hour or two before then.

21 THE COURT: 11:00 a.m.?

22 THE WITNESS: A.m. I'm sorry, yes.

23 THE COURT: Got it. Go ahead, Mr. --

24 BY MR. ANUNOBI:

25 Q And that was the time he told you from what you said that he

ADDENDUM 55

1 was hearing voices?

2 THE COURT: No. He said he was hearing voices at
3 the time of the accident. He wasn't hearing voices at the
4 time the doctor saw him.

5 THE WITNESS: Would you like me to read the
6 relevant parts of what I wrote?

7 MR. ANUNOBI: Yes, please.

8 THE COURT: No. No. The evidence speaks for
9 itself. It's already in the record. So just ask questions
10 that you need answered.

11 BY MR. ANUNOBI:

12 Q Doctor, at the time that Defendant --

13 MR. ANUNOBI: Just to confirm this, Your Honor. I
14 want to be sure.

15 BY MR. ANUNOBI:

16 Q -- at the time you spoke to the Defendant, was he actively
17 hearing voices in his head?

18 A No, he was not.

19 Q Okay. Doctor, I am going to refer you to page 231. It's
20 part of the record I gave to you.

21 A 200 and --

22 Q 31.

23 A 31. Okay. Well, just a second here. Yes, I have that in
24 front of me. Page 231.

25 Q Yes.

ADDENDUM 56

1 A It's just a trauma note.

2 Q Yes. So, Doctor, looking at the -- at page 231, is it
3 correct to say that the Defendant had what is described as
4 hypoxic brain injury?

5 A Well, I couldn't say that from this.

6 Q At the very bottom of the record.

7 A Well, that's somebody else's opinion, right.

8 Q Yes.

9 A Yeah. "This is an encouraging sign of the initial concern
10 from report." So, you know, they're not even really saying
11 he had a hypoxic injury, they're saying there was a concern
12 of a report that he had a hypoxic brain injury. So it's not
13 a definitive statement.

14 Q Okay. Okay. Doctor -- Doctor, I am going to ask you at the
15 time -- at the time you wrote this report, which was
16 April 1, would that be correct?

17 A I don't know -- which report --

18 Q The reports --

19 A -- you're referring to.

20 Q -- the reports regarding the commitment. The report that --
21 at the commitment at the time you wrote the report?

22 A Well, let me look here because there's some, you know,
23 documents in here that other people wrote that they present.
24 So here's a Dr. Randy Ward, this is dated 3/31/22.

25 Q Yes.

ADDENDUM 57

1 A This was the district court petition for commitment.

2 Q Yes.

3 A It's page 284.

4 Q Yes. And then -- and then there's a report -- the report
5 was signed by you on page 285, but I'm just saying at the
6 time of this report.

7 A What about at the time?

8 Q At the time you wrote this report, was the Defendant in a
9 proper mental state to understand questions asked of him?

10 A Well, I wrote this report at a different time.

11 Q Yes.

12 A You know, when I look through our serial mental status exams
13 which were done from the -- there was done on the 31st and
14 then there were two more done after that which -- let's see,
15 one was on 4/1.

16 Q Yes.

17 A And one was 4/5, I believe. Yeah, you know, our mental
18 status exams which were done through interpreters all of
19 those indicated that, you know, we look at things like
20 speech rate, volume, you know, sensorium, are they alert to
21 person, place. Are they able to attend and concentrate, all
22 the kinds of things that would make up somebody's ability to
23 understand information and those were all, you know, listed
24 as either average or within normal -- essentially within
25 normal limits. Let's see, memory intact, short -- you know,

APPENDUM 58

1 immediate recall intact, short term intact, long term
2 intact, fund of knowledge, average, that's kind of a guess,
3 judgment insight, adequate. There was no evidence of
4 psychosis at those times, at least at the one I'm reading of
5 the 4/1.

6 Q Okay. Now at the time -- March 30th, 2021, Defendant was
7 also given medications that -- he was given medications for
8 mental health, would that be correct?

9 A I don't know. I wasn't involved in giving him medications.

10 Q Okay. At this -- at this -- okay. Doctor, I am going ask
11 you, do you --

12 MR. ANUNOBI: I have no further questions, Your
13 Honor.

14 THE COURT: I'm sorry?

15 MR. ANUNOBI: I have no further questions for Dr.
16 Ward.

17 THE COURT: All right. Anything -- any cross from
18 the State?

19 MR. KELM: Just a little bit, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MR. KELM:

22 Q So you testified you attempted to see the Defendant on March
23 30th, correct?

24 A Yes, that's correct.

25 Q But he refused to talk to you that day?

1 A Yes.

2 Q Did you have any contact with him that day, do you recall?

3 A I believe that was my medical student went in there and as
4 kind of when we go on rounds some times the student will go
5 in to see if the patient's, you know, either in shape
6 because of whatever is going on or they will talk to us.
7 And he didn't want to meet with a psychiatry team at this
8 time is what the -- the quote was from my student.

9 Q And so he told somebody on your staff that he doesn't want
10 to talk?

11 A Yes.

12 Q And when did you actually meet with him?

13 A On the 31st.

14 Q And do you recall -- do you have an actual recollection of
15 that or was that only through your records?

16 A Yeah. If I read the records, you know, you kind of get a
17 gestalt of things, you get some memories but nothing real
18 specific. I mean, when I read it I -- it brings back the
19 memories in a sense.

20 Q Sure. I mean, it was a long time ago. I'm sure --

21 A Yea, if it wasn't for this I'd be kind of very vague.

22 Q Okay. Do you recall at all, as best as you can and if you
23 can't that's fine --

24 A Yeah.

25 Q -- what his state of mind was at that time, as far as his

ADDENDUM 60

1 mental state?

2 A Okay. On the 31st?

3 Q Yes.

4 A Okay.

5 Q When you met with him?

6 A So the way we write these reports, you know, we'll have a
7 mental status exam and we'll also have a narrative and then
8 we'll have kind of an impression. And so, you know, I could
9 read off what I think are some of the relevant issues from
10 the --

11 Q Well --

12 A -- or, I mean I didn't find any evidence of psychosis. "It
13 denies any current suicidal ideation or plan to kill
14 himself. Denies having any past history of suicide." I
15 don't know if this is helpful, but "he describes over the
16 last month feeling desperate about a stressor in his life,
17 saying, quote, I didn't feel I could get through it, end
18 quote, when I asked to elaborate he refused, he said it was,
19 quote, personal, end quote, or, quote, private, end quote,
20 multiple attempts to reask the question led to the same
21 answer. He was very dismissive of our team in a sense and
22 that's when he said he did describe a voice during the
23 suicide attempt, quote, telling me to do it, end quote."

24 Q So at that time you were talking to him he was not in some
25 kind of psychosis?

ADDENDUM 61

1 A No, he was not.

2 Q And he was able to understand you?

3 A Yes.

4 Q And he was able to understand what was going on around him?

5 A (Witness nods head.)

6 Q Can you answer out loud?

7 A I'm sorry. Yes.

8 Q Just a formality.

9 A As shrinks we nod.

10 Q So --

11 A Yeah.

12 Q Just to ask that question again --

13 A Yes.

14 Q -- he could understand what was going on?

15 A Yes. You know, in our mental status exam we talk about him
16 being, you know, his sensorium being clear, his attention to
17 concentration being intact, his memory being intact, things
18 of that sort that would point to somebody not being kind of
19 able to --

20 Q Okay. So this isn't just a gut feeling?

21 A No. No. This was not.

22 Q You examined him, you used your medical training, you had
23 parameters, and based on all that, your medical opinion is
24 he knew what was going on, correct?

25 A Yes.

ADDENDUM 62

1 MR. KELM: I have nothing further, Your Honor.

2 THE COURT: So, Doctor, the -- the necessity of
3 the 72-hour hold was based on his suicide attempt.

4 THE WITNESS: Yes. That was a very serious
5 attempt. We do, you know, 72-hour hold allows us to keep
6 somebody in the hospital as we file civil commitment papers.

7 THE COURT: Yep. And so the fact that you file a
8 civil commitment paper -- civil commitment on someone
9 doesn't necessarily mean that you think they are
10 incompetent.

11 THE WITNESS: No. It gives -- it's -- essentially
12 the reason for a 72-hour hold in a certain sense is a time
13 for us to do further assessment of the patient. And during
14 that time, you know, a team from the county comes in and
15 examines the patient and presents that to the county that
16 decides whether they support or don't support our
17 commitment.

18 THE COURT: Okay. Very good. Any other questions
19 for this witness --

20 MR. ANUNOBI: Yes.

21 THE COURT: -- Mr. Anunobi.

22 MR. ANUNOBI: Yes, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. ANUNOBI:

25 Q Doctor, I wanted to just refer to -- to the note I gave you

ADDENDUM 63

1 -- to the document I gave you. Page 230.

2 A Sure.

3 Q Yes.

4 A Okay. 230.

5 Q Yes. Now if you look at the -- at the top, you know, if you
6 look at the top page, line three it indicates that he was
7 put on Propofol, do you see that?

8 A Arrives with -- place -- court (inaudible) --

9 THE COURT: Doctor, I have to have you do that to
10 yourself.

11 THE WITNESS: I'm sorry.

12 THE COURT: This poor Court Reporter to your left
13 here --

14 THE WITNESS: I'm sorry. I apologize. I tend to
15 sometimes do that. Yeah, intubated --

16 BY MR. ANUNOBI:

17 Q Yes. And then it also says that, you know, because he was
18 moving his extremities you have to increase the sedation?

19 A Well, whoever was there must have felt that was the case.

20 Q All right. Doctor, what does Propofol do?

21 A It's a sedative, half-life sedative. So if you give it to
22 somebody, we use it IV and so it's one of many different
23 types of sedatives we have. This one works on the ADRA
24 neurological system and so the advantage to it is -- it is
25 relatively short term so we can turn it on and off. And so

ADDENDUM 64

1 that's why they use it in this setting.

2 Q And it is said that it also indicated that he was increased;
3 is that correct?

4 A If that's what it says there.

5 Q Yeah. And what date was that, please, just from your
6 record? What date was that?

7 A It says 11:00 a.m. on the 29th.

8 Q Okay.

9 A That's when it was signed and then it says 11:06 at the top,
10 I don't know, somewhere around 11:00.

11 MR. ANUNOBI: All right. I have no further
12 questions.

13 THE COURT: Anything else, Mr. Kelm?

14 MR. KELM: Just briefly about that.

15 RECROSS-EXAMINATION

16 BY MR. KELM:

17 Q So when he was given this and that and dosage was increased,
18 that was on the 29th of March?

19 A (Witness nods head.)

20 Q Not the 30th of March, correct?

21 A Yes, that's the best I can tell from reading this. Mm-hmm.

22 Q And so if someone was given that on the 29th and not on the
23 30th, would they still be under the effects of that
24 sedative?

25 A With that particular sedative, you know, I refer to it

ADDENDUM 65

1 having a short half-life. That means it leaves your body
2 relatively quickly. So then like I was saying, that's the
3 advantage of the drug. So you can kind of almost turn it on
4 and off. So I would not expect much if any to be active
5 24 hours later.

6 MR. KELM: I have nothing further, Your Honor.

7 THE COURT: Very well. Thank you so much, Dr.
8 Ward, you can step down. Now I don't want you to take any
9 of my exhibits with you.

10 THE WITNESS: Oh.

11 THE COURT: So don't take anything you didn't
12 bring.

13 THE WITNESS: No. I just have my own exhibits
14 here or whatever.

15 THE COURT: All right. You can take your own
16 home, but not ours.

17 THE WITNESS: Sorry about that. I'm used to
18 putting things in folders.

19 THE COURT: We're going to take a break for the
20 benefit of our hardworking interpreter here as well as our
21 hardworking Court Reporter. Let's take about 15 minutes.
22 While we're on the break, Mr. Anunobi, if you would just
23 gather the exhibits that have been received so far. So 8A,
24 8, 6, and 2. And I can have those. We're off the record.

25 (A brief break was taken.)

ADDENDUM 66

1 THE COURT: All right. We're back on the record.
2 And about to hear the testimony of Dr. Ian Heath. If you
3 could please raise your right hand.

4 IAN HEATH,

5 the Witness in the above-entitled
6 matter, after having been duly sworn,
7 testifies and says as follows:

8 THE WITNESS: Yes, I do.

9 THE COURT: Thanks, please have a seat.

10 THE WITNESS: Thank you.

11 THE COURT: Once you're settled there, can you
12 give us your last -- your full name, spelling your last.

13 THE WITNESS: Certainly. It's Ian James Heath and
14 last name is spelled H-E-A-T-H.

15 THE COURT: Very well. Go ahead, Mr. Anunobi.

16 MR. ANUNOBI: Yes.

17 DIRECT EXAMINATION

18 BY MR. ANUNOBI:

19 Q And what is your profession, please?

20 A I'm a psychiatrist.

21 Q Okay. And you're an MD, right?

22 A Correct.

23 Q Okay. And just very briefly so that I'll just give the
24 court a little bit about your background. And what medical
25 school did you attend?

ADDENDUM 67

1 A I went to the McGill University Faculty of Medicine in
2 Montreal.

3 Q Okay. And are you board certified?

4 A I am.

5 Q Okay. And what does that mean, board certification?

6 THE COURT: We -- we don't need that. I have his
7 CV and I don't think there is any objection to his
8 qualifications. Mr. Kelm?

9 MR. KELM: I would stipulate to that, Your Honor.

10 THE COURT: Thanks.

11 BY MR. ANUNOBI:

12 Q All right. So, Dr. Heath, you know Michael Huynh?

13 A Yes.

14 Q He's sitting down right here, correct?

15 A Correct.

16 Q Okay. So -- and how do you know Michael Huynh?

17 A Mr. Huynh was on my treatment team from approximately
18 April 5th through April 15th of 2022.

19 Q Okay. And then how did he come to be seen by you?

20 A He was transferred from the trauma service. So over in the
21 nonpsychiatric part of the hospital and transferred to an
22 inpatient psychiatric bed.

23 Q Okay. Is it -- was he referred to you by a particular
24 doctor?

25 A He was followed by the consult service, Dr. Ward was one

ADDENDUM 68

1 individual that had seen him, yes.

2 Q Okay. And then you saw him between April 5th to April 15th?

3 A Yes. I think I saw him on approximately seven occasions.

4 Q Okay. And why was he referred to you?

5 A He was admitted due to concern about suicidality.

6 Q Okay. Doctor, I'm going to refer you to a medical record
7 that has been marked for identification as Exhibit 3.

8 MR. ANUNOBI: Your Honor, may I approach the
9 witness?

10 THE COURT: As I've said, you do not need to
11 request permission.

12 MR. ANUNOBI: Okay. That's fine, Your Honor.

13 MR. KELM: Which one is it?

14 THE COURT: Exhibit 3.

15 BY MR. ANUNOBI:

16 Q Are you familiar with that record?

17 A Yes, I am.

18 Q Would that be -- would it be correct that those are your
19 discharge instructions?

20 A This is a discharge summary which includes diagnosis, course
21 of treatment, discharge medications, et cetera.

22 Q Okay. And is this typical -- typically provided by your
23 office after treatment of a patient?

24 A Yes.

25 Q Okay. All right. So --

ADDENDUM 69

1 THE COURT: Okay. Court will receive Exhibit 3.
2 Go ahead.

3 MR. ANUNOBI: Thank you, Your Honor.

4 BY MR. ANUNOBI:

5 Q Now regarding this document I want you to look at page one
6 of the document.

7 A Okay.

8 Q And looking at the page could you tell us from page one what
9 the diagnosis was of Mr. Huynh at the time he was admitted?

10 A The admission and discharge diagnosis was of a major
11 depressive episode, a single episode with psychotic
12 features.

13 Q So what does psychotic features mean to you? I mean, what
14 do you understand psychotic features?

15 A Psychosis is not necessarily diagnostic of a specific
16 illness, it really refers to a group of symptoms that a
17 patient can manifest that include disorganized thinking,
18 hallucinations, delusions which are false fixed beliefs that
19 aren't held by others.

20 Q Okay. So please tell the Court whether you diagnose --
21 whether you found him to have psychotic features when you
22 checked him out? When you examined him?

23 A So Mr. Huynh had reported hearing a voice that he at times
24 characterized as a ghost in his head or an urge and other
25 times a voice. And so that diagnosis is -- well, the

ADDENDUM 70

1 inclusion of the psychotic features qualifies is intended to
2 capture that manifestation of his illness.

3 Q And I noticed that when he was discharged the same things
4 were found, correct?

5 A Yes.

6 Q So is this an active finding from you or is it just what he
7 told you? I want you clarify to the Court was he -- when
8 you examined him was he found to have some level of --

9 MR. ANUNOBI: Your Honor, I apologize. Sorry. I
10 will just take it off. I'm so sorry.

11 BY MR. ANUNOBI:

12 Q Now at the time you examined him, was it a finding you made
13 that he had psychosis? Will you tell the Court one way or
14 the other?

15 A It -- it was. Often times that is related to what a patient
16 states to you. He also exhibited a positive full output
17 consistent with someone who's had some psychosis.

18 Q So it is correct to say that he had psychosis?

19 A Yes.

20 Q Now, Doctor, and this was what you saw between the 5th and
21 the 15th?

22 A We saw it from approximately the 5th to around the 10th. I
23 think he -- he had significant improvement with the
24 treatment and the psychosis remitted.

25 Q Okay. Now -- now I also note that -- and I will refer you

1 to page four of that record. And if you look at
2 paragraph four of that record on page four -- if you look at
3 paragraph four.

4 A Okay.

5 Q Looking at paragraph four does it say -- looking at
6 paragraph four, line three -- does it say anything about
7 when his hallucination -- well, when his auditory
8 hallucinations and psychosis resolved? Did it say anything
9 about when it resolved?

10 A It noted, "the auditory hallucinations slash psychotic
11 features resolved by day five."

12 Q And by day five of admission, correct?

13 A Of admission to inpatient psychiatry.

14 Q And if he was admitted inpatient psychiatric on the 5th of
15 April from what you said, that means it would have resolved
16 by the 10th of April?

17 A Correct.

18 Q That means that before the 10th of April he had psychosis?

19 A Yes.

20 Q And I also would refer you to page four, line two. And on
21 page four, line two it talks about -- sorry. Page four,
22 paragraph two, line two, right? It talks about depressive
23 ruminations. Could you explain that, Doctor, in a way so
24 that we can understand you?

25 A Certainly. The depressive ruminations would be basically

ADDENDUM 72

1 someone perseverates on, I guess -- how to put it -- macabre
2 thoughts or some such negative thoughts that the person just
3 continues to -- to persevere over.

4 Q Okay. And then you also stated that -- and that is in
5 paragraph two also line two, that -- okay. You've already
6 explained auditory hallucinations and in line three you
7 talked about voices and/or ego-dystonic urges. Do you see
8 that?

9 A Yes.

10 Q What does that mean?

11 A So an individual can complain of hallucination or report
12 that they hear a voice in their head.

13 Q Okay.

14 A That could be a hallucination or it could be their own
15 self-talk. In other words, a lot of people may hear a voice
16 in their head, but it's not necessarily a true
17 hallucination.

18 Q Yes.

19 A Typically most people describe it as emanating from outside
20 themselves.

21 Q And it is correct to say that these things were happening to
22 him?

23 A As he reported, yes.

24 Q Okay. Now it also states in line four that he had insomnia
25 and early morning awakening. Would that be typical of

ADDENDUM 73

1 people in that condition?

2 A Typical of depression, yes.

3 Q Okay. So insomnia means that -- is it correct to say that
4 insomnia means that he could not sleep?

5 A Yes. Yes. A disturbed sleep pattern.

6 Q And that's if he does sleep he wakes up very early in the
7 morning?

8 A Yes.

9 Q Okay. And then you also -- there is also stated in
10 paragraph five that he had what is described as psychomotor
11 slowing. What is psychomotor slowing?

12 A Psychomotor slowing is a literal slowing down of typical
13 voluntary motor movements. So individuals who are severely
14 depressed literally move slower or have less spontaneous
15 movement as compared to individuals who are not depressed.

16 Q And how does it affect their ability to perceive words
17 spoken to them?

18 A It wouldn't necessarily affect that capacity, it's more
19 motor manifestation of depression.

20 Q Is there a slow down in their thinking when they have this
21 situation?

22 A It's possible, yes.

23 Q Okay. And because of that slow down is it correct to say
24 that the brain communicates slowly to the body what to do?

25 A Yes.

1 Q Now, Doctor, it is also mentioned in line -- line five that
2 he was given a medication called Mirtazapine?

3 A Correct.

4 Q Could you please tell us what Mirtazapine does?

5 A Mirtazapine is a antidepressant medication.

6 Q Okay. And does Mirtazapine have side effects?

7 A Certainly, yes.

8 Q Would drowsiness be part of the side effects?

9 A It's a potential side effect, correct.

10 Q Would dizziness be part of it?

11 A Possible but less frequent.

12 Q How about abnormal dreams?

13 A Not a typical side effect of Mirtazapine, but possible.

14 Q Okay. Now essentially if you look at that document the last
15 line is -- it says he was given medication. The last line
16 of page four, sorry.

17 A Oh, okay.

18 Q Yes.

19 A Correct.

20 Q That he was given some medication, right?

21 A Yes.

22 Q And it says he was given a 30-day supply of medication,
23 correct?

24 A Yes.

25 Q Okay. And, Doctor, for the medication what kind of

1 medication would he typically be given?

2 A He was given -- and if I can refer to a later page in the
3 document -- he was given a supply of Remeron which is the
4 antidepressant medication.

5 Q Yes.

6 A Plus a medication to use as needed called Ativan or
7 Lorazepam, it's an antianxiety medication and also Melatonin
8 to assist with sleep. There were other nonpsychiatric
9 medication also given.

10 Q And do these medication any way cause sleepiness?

11 A Melatonin is a natural hormone that people use to try to
12 induce sleep, Remeron could have the potential side effect
13 of sleep, and Ativan also could make you drowsy.

14 Q Okay. So if -- and of course you also referred him to -- is
15 it correct to say that upon discharged he was referred to be
16 seen by Scott County?

17 A Yes.

18 Q And that means he will be receiving medication from Scott
19 County?

20 A Yes. He would essentially -- his management would be taken
21 over by Scott County Mental Health Services.

22 Q Okay. Now, Doctor, the next thing I was going to ask you
23 had to do with the same page four, under paragraph two. And
24 if you look at the -- at the last -- line five actually.
25 You said you discussed with the patient various options

1 about treatments. In other words, there is options of
2 antidepressants or anxiety medications we discussed. Would
3 that be correct?

4 A Yes.

5 Q Okay. And so you also mentioned you given the option of
6 ECT?

7 A Correct. That was discussed.

8 Q What is ECT, doctor?

9 A ECT is electro convulsive therapy. It's putatively the most
10 affective antidepressant treatment there is.

11 Q And how does it work?

12 A It's --

13 THE COURT: Counsel, I'm sorry. I'm going to
14 interrupt this. This is treatment he received after the
15 date of the statement?

16 MR. ANUNOBI: That is correct.

17 THE COURT: How is this relevant to my analysis
18 about the voluntariness of the March 30th statement?

19 MR. ANUNOBI: Your Honor, it is relevant because
20 it shows what he was experiencing at that time and the
21 treatment he was getting was part of his condition before
22 the -- I mean before and after the date he was interviewed.

23 THE COURT: Okay. But I don't need to know -- I
24 don't need the doctor to explain to me a treatment that was
25 discussed with him that he didn't have. I don't know why

ADDENDUM 77

1 this doctor needs to explain ECT to me when this patient did
2 not have it.

3 MR. ANUNOBI: No, the patient had ECT after --
4 after the doctor saw him. After he was seen by the doctor.

5 THE COURT: You gave him ECT?

6 THE WITNESS: No.

7 THE COURT: Okay.

8 MR. ANUNOBI: Oh, okay. Okay. Okay.

9 THE COURT: All right. Let's move on.

10 BY MR. ANUNOBI:

11 Q Now, Doctor, in the light of all your examinations of the
12 patient and all your treatments, I would like you to say
13 what is probably likely true or not true about him
14 considering all the circumstances from what you saw. Could
15 you comment on his mental health condition before you saw
16 him?

17 A I could not. I mean, it would be supposition on my part to
18 proffer any statement regarding -- I hadn't evaluated him at
19 that point.

20 Q Okay. Now after you evaluated him is it correct to say --
21 you've already said he's suffered from psychosis at the time
22 you evaluated him. Would that be a continuing situation
23 from the time that he had the accident?

24 A It's -- I can -- perhaps I can answer that the consult
25 service, Dr. Ward had also made an observation of that or

1 had brought that up as a potential.

2 Q Possible potential?

3 A As a potential that he was manifesting.

4 Q Okay. So he was manifesting psychosis before he saw you?

5 A According to the record, yes.

6 Q Okay. And you reviewed the records of this patient before
7 coming here, right?

8 A Yes.

9 Q And from what you saw of the patient's records and your
10 examination -- your examination of him and all the records
11 in totality he had -- he had a type of psychosis?

12 A When I saw him, yes. Yeah, he manifested those symptoms.

13 Q And from your experience in this field and from what you
14 saw, did the psychosis -- is it correct to say the psychosis
15 manifested from the time he had the accident?

16 A I don't know that. I don't think I can state that is true
17 or not true.

18 Q Okay. But on the day you saw him you --

19 A Yeah, the day I saw him I can answer to that.

20 MR. ANUNOBI: I have no further questions.

21 THE COURT: Mr. Kelm?

22 MR. KELM: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. KELM:

25 Q So some of this it's a little over my head, I get a little

ADDENDUM 79

1 confused. So I just want to clarify a few things.

2 A Okay.

3 Q Technically what was the diagnosis that you gave the
4 Defendant?

5 A It was of a major depressive episode with psychotic
6 features.

7 Q So when you say psychotic features, that means he
8 self-reported hearing voices, correct?

9 A Correct.

10 Q Was there anything else that leads you to call it featuring
11 psychotic features or whatever?

12 A Yeah. There was -- there's a question as to of course with
13 anyone who reports that, are they truly hallucinating or
14 not.

15 Q Mm-hmm.

16 A He did not manifest any abnormality of thought form, which
17 is something that we do look for. He did show other aspects
18 that we tend to see in more severe depression such as
19 psychomotor slowing. So it would be consistent as potential
20 psychotic manifestation of the depression.

21 Q So that's what you used to try to distinguish was it a voice
22 inside his head or a true psychotic kind of voice?

23 A Yes.

24 Q And so again you're just kind of going off of that and what
25 he tells you?

ADDENDUM 80

1 A Correct. Yeah.

2 Q But you said -- maybe I don't state this right so correct me
3 if I'm wrong -- but you're saying his thought process at the
4 time though was normal?

5 A His thought process was normal in terms of stringing
6 thoughts together and the output. It was on the whole
7 reduced which is typical in depression.

8 Q Okay. So he could understand what you were telling him,
9 correct?

10 A Yes.

11 Q And he could answer questions that you asked him, correct?

12 A Correct.

13 Q And he understood what you were talking about based on what
14 you were observing?

15 A I believe so, yes.

16 Q And again, this wasn't until April 5th, correct?

17 A I first saw him April 6th. So yes.

18 Q Okay. So you never did see him on March 30th, correct?

19 A I did not.

20 Q And just to clarify, you say that psychomotor slowing is
21 just what it sounds like. His motor functions slow down,
22 not necessarily his brain function?

23 A Correct. Yep.

24 Q And counsel asked you about a time you were speaking about
25 different treatment that was possible. Would you talk to

ADDENDUM 81

1 someone about possible treatment options. If you didn't.
2 think they understood what you were talking about?

3 A No. Well, I mean you'd explain the options, the question of
4 their capacity to make a decision would begin another
5 discussion of course.

6 Q And so in this case you had that discussion with him, you
7 didn't note that he was not understanding you, correct?

8 A Correct. Correct. Yeah.

9 Q So you felt discussing with him personally treatment
10 options?

11 A Yes.

12 Q And again just to clarify, sitting here even though you have
13 a ton of training, been a doctor for a long time, you
14 couldn't give any opinion on his mental state on March 30th,
15 could you?

16 A Not in my current role.

17 MR. KELM: I have nothing further, Your Honor.

18 THE COURT: Anything else, Mr. Anunobi?

19 MR. ANUNOBI: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. ANUNOBI:

22 Q Doctor, when somebody's motor functions slow down, it could
23 be a result of brain function?

24 A The -- the two -- yes. So yes -- okay.

25 Q So they're connected?

1 A Yes.

2 Q Okay. Now, Doctor, also from what you said -- or from what
3 you saw on March 5th, it is consistent -- it is possible
4 that he had -- he had that condition as of March 30th? What
5 you saw on April 5th it is very possible that he had that
6 condition on April 30th?

7 THE COURT: On April 30?

8 MR. ANUNOBI: In other words -- sorry.

9 THE COURT: March 30th.

10 MR. ANUNOBI: March 30th. Forgive me, Your Honor.

11 BY MR. ANUNOBI:

12 Q So from what you saw on March 5th?

13 THE COURT: Nope.

14 BY MR. ANUNOBI:

15 Q It is correct to say that -- is it correct to say it didn't
16 just start March 5th that that started before then?

17 THE COURT: I'm sorry. He's screwing up those
18 dates for you. It's making it confusing.

19 MR. ANUNOBI: I'm sorry.

20 THE COURT: We're -- we're trying to establish his
21 mental capacity on March 30th.

22 THE WITNESS: Right.

23 THE COURT: You saw him on April 5th. Can you --
24 can you extrapolate back and say he might have been better,
25 he might have been worse, he might have been the same?

1 THE WITNESS: It would be in some ways
2 supposition, but he probably was about the same as when I
3 saw him. I don't think he had a ton of -- a lot of
4 intervention prior to transferring over to psychiatry.
5 So --

6 THE COURT: Thank you.

7 BY MR. ANUNOBI:

8 Q In fact the reason why he was transferred to you was because
9 there was a need for further intervention on him; is that
10 correct?

11 A Yes.

12 Q So it is correct to say that if he didn't have a problem, he
13 wouldn't have come to see you?

14 A Correct.

15 Q Now, Doctor, you -- when you were talking with him did you
16 note any -- any abnormalities in his behavior?

17 A He was somewhat regressed. Again didn't move much, was
18 sullen, but nothing that was bizarre or truly odd.

19 Q Okay.

20 MR. ANUNOBI: I have nothing else to ask. Thank
21 you.

22 THE COURT: Anything else, Mr. Kelm?

23 MR. KELM: No, Your Honor.

24 THE COURT: Thank you so much, Doctor. You may
25 step down.

1 THE WITNESS: Should I --

2 THE COURT: Is that your copy or is that mine?

3 THE WITNESS: It's the -- yeah. Court's copy.

4 THE COURT: You better leave it here on the --
5 just leave it here on the -- thank you.

6 THE WITNESS: You bet. Thank you.

7 THE COURT: Let's go off the record for a minute.

8 (Discussion was held off the record.)

9 THE COURT: Good afternoon, Ms. Thao. You need to
10 take whatever you have out and I'll have you approach the
11 Bench, please. Just come on up here. And raise your right
12 hand.

13 | THAO KAY HARVEY,

14 the Witness in the above-entitled
15 matter, after having been duly sworn,

16 testifies and says as follows:

17 THE WITNESS: Yes, I do.

18 THE COURT: Thanks. Have a seat. Once you're
19 settled there, can you give me your full name, spelling
20 first and last.

21 THE WITNESS: My full name is Thao Kay Harvey.
22 First name is Thao, T-H-A-O, my last name is Harvey,
23 H-A-R-V-E-Y.

24 THE COURT: Thank you. Go ahead, Mr. Anunobi.
25

Addendum 85

DIRECT EXAMINATION

BY MR. ANUNOBI:

Q You live in Minnesota, do you?

A I do live in Minnesota.

Q Okay. Burnsville?

A No, I live in Rosemount. Burnsville is my office.

Q Okay. What do you do for a living?

A Right now I self-employed. I own my business.

Q And what is your business?

A Right now I do travel agency. I do a lot visa and passport for Vietnamese people to go back home.

Q Okay. Now do you know Kim Huynh?

A Yeah, I do.

Q Who is Kim Huynh?

A Kim Huynh is -- before, actually seven years ago I been working for them in the nail salon before I own my business.

Q Okay. Is she related to Mr. Michael Huynh?

A Yeah.

Q And --

A I know them.

Q You know Michael Huynh?

A I do.

Q He's sitting here beside me?

A Yes.

Q Okay. Now -- and what are you to Ms. Huynh? You are

ADDENDUM 86

1 friends?

2 A Before it was a boss and later we are friend. We are
3 Vietnamese so sometimes we get together and we talk, but I
4 just work for them like a few months.

5 Q Okay.

6 A Yeah.

7 Q Okay. Now I want -- I wanted to go back to March 29th,
8 2022. Do you remember that date?

9 A That day around 4:00 in the morning I got a phone call from
10 Kim Huynh. She call me about Michael not home. Before that
11 she told me she had the meeting with the police in the
12 police station in Shakopee and she need me help to drive her
13 because she doesn't drive. So she called me in the morning
14 4:00, I remember early 4:00 morning she said Michael he not
15 home and he don't -- she don't know where's him. So she
16 tried to call me. Told Michael to find out where is he, but
17 I tried to call Michael but Michael never pick up the phone.
18 So next morning she got a meeting I remember 7:00 in the
19 police station. So I drove her there and my just outside
20 waiting for her when she go inside the police station and
21 then later about maybe hour or something she come back and I
22 drove her back home. When we back home we started to find
23 out we -- I saw the police -- state patrol in front of the
24 house to ring the door. So I told her to come down to take
25 a look to see why the state patrol looking something for

ADDENDUM 87

1 you. So the state patrol come down and say Michael he have
2 car accident around 6:00 something in the morning and that
3 time he in St. Michael [sic] hospital, the emergency room.

4 Q Okay.

5 A And then Kim Huynh last time she know what to do so I just
6 drove her to the hospital.

7 Q Where was the hospital?

8 A St. Michael [sic]. St. Michael [sic].

9 Q Are you sure? Would that be --

10 A St. Francis. St. Francis. Sorry.

11 Q Okay. And when you went to St. Francis Hospital, did you
12 and Kim see Michael?

13 A I don't see because it is in the emergency room.

14 Q Okay.

15 A They not let me in because I just a friend of Kim Huynh.

16 Only Kim Huynh go in there with him.

17 Q Did you understand -- did -- did you get to understand
18 anything about -- okay. From the hospital after she went
19 there, did you go anywhere else?

20 A Right by the St. Michael [sic] in there the doctor say he
21 need to HCMC downtown in Minneapolis. Be transferred. He
22 go to HCMC.

23 Q Okay.

24 A The hospital there.

25 Q Okay.

1 A So from there I drove Kim Huynh going to that hospital to
2 wait for, you know, for Michael.

3 Q Okay. And when -- when you got to HCMC, did you go in? Did
4 you see Michael?

5 A So when we come there they had one room, we sit there and
6 wait -- Kim Huynh sit there and wait -- and they had
7 interpreter over there too and the doctor come down and talk
8 to Kim Huynh about how his situation. And after then Kim
9 Huynh and I go up to the room to see him in the room.

10 Q Okay. And when you went to the room, what did you see of
11 him? How did he look when you went to the room?

12 A That time I talk about he dead because all the tubes his
13 body and he don't know nothing and -- in the bed and whole
14 tube in the -- and all the wire around him and talk about he
15 dead. So -- but after then I go home, Kim Huynh and I go
16 home, because the doctor say he cannot do anything over
17 there. So we go home. So from there I didn't see him for
18 maybe a few months later.

19 Q Okay. Were you asked to come back -- to your knowledge were
20 you asked to come back again?

21 A No, I didn't come back.

22 Q No, I mean was his wife asked to come back again? Do you
23 know?

24 A I -- you know, I'm really busy.

25 Q Okay.

1 A So I didn't ask to go. I said okay. I got so many things
2 going on in my business and she had her family -- his
3 family.

4 Q That's all. That's all I have for you.

5 MR. ANUNOBI: I have no further questions.

6 THE COURT: Okay. Any questions, Mr. Kelm?

7 MR. KELM: Just briefly, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. KELM:

10 Q Do you recall what day you saw the Defendant?

11 A I don't know it's -- I remember -- I don't remember exactly
12 the date at that time.

13 Q So would you say it was the first day he was at HCMC?

14 A That's the first time -- first day and the last day too.

15 Q And so if I told you that was March 29th, would you have any
16 reason to disagree with that?

17 A I'm -- because I'm not sure. I don't remember exactly. So
18 I'm --

19 Q Okay. But if that was the first day he was there, was
20 March 29th, you would agree --

21 A If the day is 29th that's the day I'm there.

22 Q Okay.

23 A Yeah.

24 Q And you didn't see him the next day, correct?

25 A No.

ADDENDUM 90

REDIRECT - HARVEY

91

FILED

February 15, 2024

**OFFICE OF
APPELLATE COURTS**

1 Q So if that was March 30th you never saw --

2 A Nope. I never saw him until two or three months later I
3 went to the Vietnamese market. I saw him in the market, he
4 was with his wife.

5 Q Okay. Thank you.

6 MR. KELM: I have nothing further, Your Honor.

7 THE COURT: Anything else, Mr. Anunobi?

8 REDIRECT EXAMINATION

9 BY MR. ANUNOBI:

10 Q Just -- well, so you when you saw him you said he was
11 unconscious, right?

12 A Yeah. He can -- he -- a lot of tubes around and all the
13 machine around him. He actually in really bad shape at that
14 time.

15 Q About what time of the day was that?

16 A That's later in the day. Let me remember when we go in the
17 morning early, go St. Francis and be there around maybe
18 around 2:00 or 3:00.

19 Q In the afternoon?

20 A Yeah, the afternoon one.

21 MR. ANUNOBI: All right. That's all, Your Honor.

22 THE COURT: Anything else, Mr. Kelm?

23 MR. KELM: No, Your Honor.

24 THE COURT: Thank you, Ms. Harvey. You may step
25 down.

ADDENDUM 91

1 THE WITNESS: Thank you.

2 THE COURT: All right. Just for the purposes of
3 the record, I am going indicate that I have received
4 Exhibits 2 through 8, pursuant to the agreement of the
5 parties. There was an additional Exhibit 1 that I believe
6 is in dispute and it is 2022 human rights report pertaining
7 to Vietnam.

8 MR. ANUNOBI: Yes, Your Honor.

9 THE COURT: Do you want to tell me -- do you want
10 to reserve that or do you want to argue about that today?

11 MR. ANUNOBI: Well, Your Honor --

12 THE COURT: You have three minutes. So I'll keep
13 that -- I'll keep you on the honest about that.

14 MR. ANUNOBI: Okay. Your Honor, first of all this
15 report was made I'll -- I'll do this -- this report was made
16 by the United States State Department. Your Honor, also
17 this report is not hearsay because it qualifies under the
18 official records exception.

19 THE COURT: I'm just curious why it's relevant to
20 us.

21 MR. ANUNOBI: Yes, Your Honor. This report states
22 -- talks about human rights abusers, how people are treated
23 in Vietnam. Part of the evidence the Defendant is going to
24 give when he comes tomorrow -- or when he comes another day
25 is about what he experienced in Vietnam before migrating to

ADDENDUM 92

1 America. Part of --

2 THE COURT: Which was --

3 MR. ANUNOBI: Which was --

4 THE COURT: When?

5 MR. ANUNOBI: When he was --

6 THE COURT: No. No. How long ago?

7 MR. ANUNOBI: Well, about 23 years ago.

8 THE COURT: Okay. I'm going to reserve ruling
9 until I hear his testimony to determine if this is relevant
10 --

11 MR. ANUNOBI: Yes, Your Honor.

12 THE COURT: -- to our case.

13 MR. ANUNOBI: Absolutely.

14 THE COURT: I will hold it until then. Now we got
15 to get Lana out of here. So what -- how much time do we
16 need to set aside to complete this hearing?

17 MR. ANUNOBI: Your Honor, I'm sure that I should
18 be done within an hour if he -- well, not today. I'm just
19 saying --

20 THE COURT: Your client's testimony -- you think
21 you have an hours worth of testimony from your client?

22 MR. ANUNOBI: The reason why I say it, Your Honor,
23 is because he's very -- he doesn't understand very easily.
24 Apparently he tells me he's been on medication. So he
25 doesn't perceive very easily.

APPENDUM 93

1 THE COURT: I'm -- I'm just asking how --

2 MR. ANUNOBI: Yes.

3 THE COURT: -- long your portion will be.

4 MR. ANUNOBI: It will be about an hour.

5 THE COURT: Okay. And then we have
6 cross-examination and I know that you want to limit that,
7 but once he's on the stand any issue that you open is open
8 to the State to cross-examine.

9 MR. ANUNOBI: That is correct, Your Honor.

10 THE COURT: All right. Could you do the afternoon
11 of October 16th?

12 MR. KELM: Your Honor.

13 THE COURT: Yep.

14 MR. KELM: I have a two-week long manslaughter
15 trial starting --

16 THE COURT: We're going to go off the record. So
17 poor Chelsea doesn't have to take this down. Sorry.

18 (Discussion was held off the record.)
19
20
21
22
23
24
25

STATE OF MINNESOTA)

) REPORTER'S CERTIFICATE

COUNTY OF SCOTT)

I, **Chelsea E. Hoffman**, do hereby certify that
the foregoing transcript, consisting of the preceding
95 pages, is a true and complete transcript of the
proceedings had of record.

Dated: 12/04/2023

/s/Chelsea E. Hoffman

Chelsea E. Hoffman

Official Court Reporter

Scott County Government Ctr.

200 Fourth Avenue West

Shakopee, MN 55379

(952) 496-8223

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

3 -----
4 State of Minnesota,

File No. 70-CR-22-14898

5 Plaintiff,

6 vs.

CONTINUED CONTESTED
OMNIBUS HEARING

7 Michael Tien Huynh,

8 Defendant.
9 -----

10
11 The above-entitled matter came on for hearing
12 before the Honorable Caroline H. Lennon, Judge of the
13 above-named Court, on November 17, 2023, at the Scott
14 County Government Center, in the City of Shakopee, County
15 of Scott, State of Minnesota.

16
17 **APPEARANCES**

18 Steven J. Kelm, Assistant Scott County Attorney,
19 appeared for and on behalf of the State of Minnesota.

20 Eric C. Anunobi, Attorney at Law, appeared for
21 and on behalf of the Defendant.

22 The Defendant was personally present.

23 Lana Nguyen, Court Certified Vietnamese
24 Interpreter, was also present.
25

ADDENDUM 96

I N D E X

WITNESSES

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1 THE COURT: All right. Good afternoon.
2 We are here in State of Minnesota versus Michael
3 Huynh.

4 We have an Interpreter present for the
5 benefit of the Defendant. Your name for the record,
6 please.

7 THE INTERPRETER: Your Honor, Lana Nguyen,
8 L-A-N-A, N-G-U-Y-E-N, Certified Vietnamese
9 Interpreter.

10 THE COURT: Have you been sworn today,
11 Ms. Nguyen?

12 THE INTERPRETER: No, Your Honor, not today.
13 (Interpreter sworn.)

14 THE INTERPRETER: I do.

15 THE COURT: Thank you. We are here today on
16 a Continued Contested Omnibus Hearing. I understand
17 that the State has already presented the officer's
18 testimony at our last appearance.

19 Anything further to be presented on behalf
20 of the State, Mr. Kelm?

21 MR. KELM: No, Your Honor.

22 THE COURT: Very well. Then, Mr. Anunobi,
23 you may go ahead and present your case.

24 MR. ANUNOBI: Thank you, Your Honor.

25 Your Honor, at this -- at this time, the Defendant

ADDENDUM 98

1 calls Ms. Kim Huynh.

2 THE COURT: Ms. Huynh, can I have you take
3 your jacket off, please?

4 THE WITNESS: (Through the Interpreter)
5 Sorry, Your Honor.

6 THE COURT: Come on up. I'm sorry. Does
7 the witness require an Interpreter?

8 THE INTERPRETER: Yes, Your Honor, she does.

9 THE WITNESS: (Through the Interpreter)
10 Yes.

11 THE COURT: If you will raise your right
12 hand.

13 **KIM THI HUYNH**

14 called as a witness,
15 after having been first duly sworn,

16 was examined and testified as follows:

17 THE WITNESS: (Through the Interpreter)
18 Yes.

19 THE COURT: Please have a seat. All right.
20 Let's go off the record for a minute.

21 (Off-the-record discussion.)

22 THE COURT: All right. We are back on the
23 record. If the witness could state her name for the
24 record, please.

25 THE WITNESS: (Through the Interpreter) My

ADDENDUM

99

1 name is Kim Thi Huynh.

2 THE COURT: And can you spell your middle
3 and last name, please?

4 THE WITNESS: (Through the Interpreter) My
5 middle name is T-H-I. My last name H-U-Y-E-N (sic.).

6 THE COURT: All right. Go ahead,
7 Mr. Anunobi.

8 MR. ANUNOBI: Yes.

9 **DIRECT EXAMINATION**

10 BY MR. ANUNOBI:

11 Q Where do you live, please?

12 A (Through the Interpreter) Here? You mean here?

13 Q Where she lives.

14 A (Through the Interpreter) I live at 1560 Village
15 Square Boulevard, Shakopee.

16 Q And what do you do for a living?

17 A (Through the Interpreter) I work as a nail tech.

18 Q And what does a nail tech do?

19 A (Through the Interpreter) They beautify people's
20 fingernails and toenails.

21 Q And are you married, please? Could you tell the
22 Court, please, whether or not you are married?

23 A (Through the Interpreter) Yes, I am.

24 Q Okay. Are you -- how are you married? Are you
25 married legally, I mean, on the American law?

ADDENDUM 100

1 A (Through the Interpreter) Not legally in the United
2 States, but according to Vietnamese custom we live
3 like -- as husband and wife.

4 Q Okay. How long have you guys been together?

5 A (Through the Interpreter) For ten years.

6 Q And would that be with Mr. Michael?

7 A (Through the Interpreter) Yes.

8 Q Okay. So where were you born?

9 A (Through the Interpreter) I was born in Tay Ninh --

10 THE INTERPRETER: T-A-Y N-I-N-H.

11 THE WITNESS: -- (through the Interpreter)

12 Vietnam.

13 BY MR. ANUNOBI:

14 Q Okay. And are you a citizen of the United States?

15 A (Through the Interpreter) Yes.

16 Q When did you come into the United States?

17 A (Through the Interpreter) In 2003.

18 Q And when you came to the United States did you come to
19 Minnesota directly?

20 A (Through the Interpreter) No. I lived in Virginia
21 for one year before I came here.

22 Q Okay. Now, I want to talk about your education, and
23 so please tell the Court the highest education you had
24 in Vietnam. Well, did you -- where did you have your
25 education? Did you have it in Vietnam?

ADDENDUM 101

1 A (Through the Interpreter) I was educated in Vietnam.

2 Q And what was your highest level of education?

3 A (Through the Interpreter) Seventh Grade.

4 Q Okay. And when did you complete Seventh Grade?

5 A (Through the Interpreter) I can't recall exactly.
6 Perhaps it was in '92 or '93.

7 Q Okay. Now, how old were you when you came into the
8 United States?

9 A (Through the Interpreter) Twenty-four years old.

10 Q And like you said you had a Seventh Grade degree, a
11 Seventh Grade level, right?

12 A (Through the Interpreter) Yes.

13 Q And when you came into the United States did you have
14 any kind of education?

15 A (Through the Interpreter) No, sir.

16 Q Why not?

17 A (Through the Interpreter) Because I had to look for a
18 job to support myself, and I had to send money to
19 support my family in Vietnam.

20 Q Okay. And so what family do you have in Vietnam?

21 A (Through the Interpreter) I have my parents, my
22 brothers and sisters, and my -- my nephews.

23 Q Did you do English as a second language here? Did you
24 try to learn English as a second language?

25 A (Through the Interpreter) Yes.

ADDENDUM 70102

1 Q So you learned English in America?

2 A (Through the Interpreter) I do not speak English.

3 Q Did you try to learn English here?

4 A (Through the Interpreter) I didn't go to school.

5 Q Okay. Now, since you came to America, have you ever
6 been arrested by the police?

7 A (Through the Interpreter) No, sir.

8 Q Have you ever been charged with any offense?

9 A (Through the Interpreter) No, sir.

10 Q Have you had any encounter with the police?

11 A (Through the Interpreter) No, sir.

12 Q You said Michael Huynh here is your husband, right?

13 A (Through the Interpreter) Yes.

14 Q Are you aware of anything that's happened regarding
15 Mr. Huynh on March 29, 2022?

16 THE INTERPRETER: March 13th? I'm sorry.

17 BY MR. ANUNOBI:

18 Q March 29.

19 A (Through the Interpreter) Yes, I do. I am.

20 Q Okay. Could you please tell the Court what you know
21 about what happened on March 29th?

22 A (Through the Interpreter) Yes. (Witness speaking in
23 Vietnamese.)

24 THE COURT: Please -- please pause
25 periodically so the Interpreter can interpret.

APPENDUM 103

1 THE WITNESS: (Through the Interpreter) On
2 March 29, there was a policeman who came to my house
3 and asked if Michael lived here, and then I said yes,
4 he was -- he is my husband, and then he -- the
5 policeman informed me that my husband is -- had an
6 accident and was hospitalized.

7 THE COURT: Very well. Let's ask another
8 question. Nothing this broad. Otherwise we get these
9 long narrative answers.

10 MR. ANUNOBI: Absolutely, Your Honor.

11 BY MR. ANUNOBI:

12 Q So -- so after the police officer told you this did
13 you go to -- did you have any information about where
14 Michael was?

15 A (Through the Interpreter) Yes. He was admitted to a
16 hospital.

17 Q Did you go to the hospital?

18 A (Through the Interpreter) Yes. I asked a friend to
19 pick me up and take me to the hospital.

20 Q What is the name of the hospital?

21 A (Through the Interpreter) St. Francis.

22 Q Did you see Michael at the hospital when you got
23 there?

24 A (Through the Interpreter) Yes. I saw Michael with
25 his eyes closed, and a device was covering his nose,

1 and I saw a lot of wires around his body, and I asked,
2 and then I was told that he was in a coma.

3 Q Okay. And then are you aware of anything that's
4 happened to him after that? Was he taken anywhere
5 else?

6 A (Through the Interpreter) After that, the person told
7 me that they were preparing to transfer my husband to
8 the hospital in Minneapolis.

9 Q Would that be Hennepin County Medical Center?

10 A (Through the Interpreter) Yes.

11 Q Did you go to Hennepin Medical Center after that?

12 A (Through the Interpreter) At the time I asked if I
13 can -- if I could accompany my husband to the
14 hospital. They said no. So I asked my friend to
15 drive me there to that hospital.

16 Q Okay. And so when you got there did you see Michael?

17 A (Through the Interpreter) At the time I was very
18 panicked and confused, I cried a lot, and when I
19 arrived I remember meeting a doctor.

20 Q Okay. After meeting a doctor was there -- did you see
21 Michael when you arrived there?

22 A (Through the Interpreter) After talking to the
23 doctor, yes, I saw my husband with his eyes closed,
24 his face was swollen, and he has something to cover
25 his nose, and he was in a coma, and I saw his body

1 convulsing.

2 Q Okay. Was there anybody with Michael at the time you
3 saw him?

4 A (Through the Interpreter) Yes, there was.

5 Q Who did you see with Michael at the time?

6 A (Through the Interpreter) I saw somebody sitting
7 there.

8 Q Who was it? Was it -- was it a male or a female
9 person?

10 A (Through the Interpreter) When I came there there was
11 a woman, and then he told me that he -- because he is
12 still in a coma you can go home. So I left her the
13 phone number, and I told her call me any time if
14 anything happens to my husband. I was told that it
15 takes 24 to 48 hours for my husband to realize what's
16 going on.

17 THE COURT: Okay. Are we allowing in this
18 hearsay without any medical records and any -- and was
19 this being communicated to her through an Interpreter
20 at the hospital?

21 BY MR. ANUNOBI:

22 Q Was this -- what you had spoken to at the hospital,
23 was this done to you through an Interpreter?

24 A (Through the Interpreter) Yes. I remember at the
25 time there was an Interpreter.

1 Q Okay. Now, you said you saw somebody with Michael at
2 the hospital?

3 A (Through the Interpreter) Yes.

4 Q Okay. What was the person doing?

5 A (Through the Interpreter) It seems that that person
6 was watching Michael or something.

7 Q Was he in Michael's ward -- room?

8 A (Through the Interpreter) Yes, that's right.

9 Q Okay. Now -- now, you said that you came into -- into
10 America about 24 years. Would that be correct?

11 A (Through the Interpreter) In 2003. So, yes, about
12 20 years.

13 Q Okay. So before you came into the United States did
14 you have reason -- did you have any reason to interact
15 with the police in Vietnam?

16 A (Through the Interpreter) In Vietnam you mean?

17 Q Yes.

18 A (Through the Interpreter) Yes. I observed that in
19 Vietnam people around me has been arrested by the
20 police arbitrarily.

21 Q Okay. Did you observe police activity or behavior in
22 Vietnam?

23 A (Through the Interpreter) Yes, I have.

24 Q Okay. So can you tell us -- can you tell us from what
25 you observed in Vietnam how the police deal with

1 citizens in Vietnam when it comes to arrests or
2 detention?

3 (Interpreting in Vietnamese.)

4 THE COURT: Counsel, how is this relevant?

5 MR. ANUNOBI: It is relevant because I am
6 going to talk about the human rights conditions in
7 Vietnam. Oh. No. Hold on a second.

8 Your Honor, it is relevant. I am going to
9 talk about her perception of police activity in
10 Vietnam. I am also going to use it as a basis to talk
11 about a report and to actually talk about her
12 subjective views or her subjective thoughts about the
13 police as it affects Vietnam.

14 THE COURT: You've got to pause. She is
15 trying to interpret this.

16 MR. ANUNOBI: Oh. Okay. Sorry. Sorry.
17 Your Honor, I am trying to talk about -- I am trying
18 to have her talk about her observation of police
19 behavior in Vietnam and I am trying --

20 THE COURT: You don't have to repeat it.
21 She got it.

22 MR. ANUNOBI: Okay. And then at the same
23 time, Your Honor, I am going to say -- I am going to
24 have her talk about her perception of the police in
25 the United States and her subjective concerns about

1 the police and about the relationship between --
2 between people and the police here as a way of --
3 because, Your Honor -- okay. The issue is --

4 THE COURT: Stop.

5 (Interpreting in Vietnamese.)

6 MR. ANUNOBI: The issue that's going to
7 arise is about the Defendant's subjective feelings
8 when he was talking with the police officer in this
9 sense.

10 THE COURT: Okay. And his subjective
11 feelings are relevant.

12 MR. ANUNOBI: They are relevant, Your Honor.

13 THE COURT: Hers are not, unless she gave a
14 statement that I am unaware of.

15 MR. ANUNOBI: Your Honor, her -- her --
16 her feelings or her perceptions are going to
17 corroborate what he says because it talks about what
18 Vietnamese feel about the police in the United States,
19 and that is why her evidence is necessary because it
20 supports what he is going to say about the perception
21 of the police in the United States.

22 Your Honor, she is going to be --

23 THE COURT: Hang on. This is a significant
24 stretch. I am going to allow you a small amount of
25 latitude to ask a few questions, but we are not going

1 to try to make her an expert as to her husband's
2 perceptions.

3 BY MR. ANUNOBI:

4 Q Okay. So you said you saw things that happened in
5 Vietnam about how police treat Vietnamese citizens; is
6 that correct?

7 A (Through the Interpreter) Yes.

8 Q Is the Vietnam economy -- I mean, is it a democracy?

9 A (Through the Interpreter) No, sir.

10 Q Okay. Now -- now, since you came into the United
11 States how do you see the police in America?

12 A (Interpreting in Vietnamese and answering in
13 Vietnamese.)

14 THE COURT: Pause.

15 THE WITNESS: (Through the Interpreter) I
16 never had any interaction with the police personally,
17 but I always have, you know, the feeling of anxiety.
18 For example, when I drive on the road, when I saw
19 the police, I stop, I pause, I hit the brake, and I
20 went -- when he passed I always look to see if he --
21 you know, to see if he's behind me or -- because I
22 feel nervous.

23 BY MR. ANUNOBI:

24 Q So why do you feel that way?

25 A (Through the Interpreter) Yeah. Because when I

ADDENDUM 110

1 lived in Vietnam when I was younger and then I
2 observed the police assaulting people, I became
3 frightened, and that happened to my family too, and I
4 got very afraid.

5 Q As part of your fear of what happened in Vietnam, just
6 from your knowledge, please tell us what else you
7 know. Are you aware -- okay. Are you aware of
8 anybody that dies in the hands of the police in
9 Vietnam?

10 A (Through the Interpreter) Yes.

11 Q Also, as part of your fear of what happens in Vietnam,
12 are you aware of anybody who was tortured in the
13 police custody in Vietnam?

14 A (Through the Interpreter) Yes, I do. I am.

15 Q Did you have any reason -- since you came to America
16 you did not go to school here, correct?

17 A (Through the Interpreter) That's correct.

18 Q Did you get any kind of education in America about how
19 the police in America behave?

20 A (Through the Interpreter) No, I do not.

21 Q Now, did you -- did you have -- were you -- did you
22 ever see reports on police activity in Vietnam?

23 A (Through the Interpreter) I'm sorry. Can you repeat
24 that?

25 Q Did you ever see any police reports -- any reports on

ADDENDUM III

1 police activity in Vietnam?

2 A (Through the Interpreter) No.

3 Q Have you seen any government reports of police
4 behavior in Vietnam?

5 THE INTERPRETER: I'm sorry, Your Honor. I
6 need to clarify.

7 THE WITNESS: (Through the Interpreter)
8 Okay. Yes. I have seen the report that the U.S.
9 State Department have talked about human rights in
10 Vietnam.

11 BY MR. ANUNOBI:

12 Q And is it correct that this report was obtained -- was
13 this -- is it -- was this report obtained by the
14 Defendant?

15 A (Through the Interpreter) I know I have a -- I have a
16 nephew who speaks English. He saw that, and he showed
17 me.

18 Q He read the report to you?

19 A (Through the Interpreter) Yes.

20 Q And if you see this report that your nephew read to
21 you -- obtained and read to you, would you recognize
22 it?

23 A (Through the Interpreter) Yes, I can.

24 Q What is your nephew's name?

25 A David.

ADDENDUM - 112

1 Q And is he based in Minnesota?

2 A (Through the Interpreter) Currently he lives in
3 Hawaii.

4 Q Did he ever visit Minnesota?

5 A (Through the Interpreter) Yes, he has.

6 MR. ANUNOBI: Your Honor, at this time, I
7 would wish to show the -- offer into evidence the
8 reports -- the report named Vietnam 2022 Human Rights
9 Report. I'm sorry. I'm sorry, Your Honor. I am
10 going to show it to her, to the witness, before I
11 offer it.

12 THE COURT: That seems like a good idea.

13 MR. ANUNOBI: Yeah. May I approach the
14 witness, Your Honor?

15 BY MR. ANUNOBI:

16 Q Can you look at this report? Is that the report we
17 are talking about?

18 A (Interpreting in Vietnamese.)

19 THE COURT: Does the witness read in
20 English? I don't think so.

21 MR. ANUNOBI: No, she does not, but I
22 will --

23 THE WITNESS: (Through the Interpreter)
24 No, I do not.

25 THE COURT: How would you anticipate she is

ADDENDUM 113

1 going to identify this document?

2 MR. ANUNOBI: She saw the document when --
3 when --

4 (The court reporter interrupted for
5 clarification.)

6 MR. ANUNOBI: She saw the document when --

7 THE WITNESS: (Through the Interpreter) I
8 saw the names that I recognize who -- who my -- whose
9 stories was translated to me by my nephew.

10 THE COURT: Counsel?

11 MR. KELM: Your Honor, I still object to
12 this document on a relevance basis.

13 THE COURT: Well, we certainly don't have
14 foundation, and I can sustain the objection on
15 foundation. I question relevance. I mean, in some
16 ways it goes to weight, but I don't think we have
17 foundation nor do I think we can get it through this
18 witness.

19 MR. ANUNOBI: All right. I will get it --
20 I will -- Your Honor, I will get it through Mr. --

21 THE COURT: Stop. Any other questions for
22 this witness?

23 MR. ANUNOBI: Yes. Yes. I have no further
24 questions, Your Honor.

25 THE COURT: I'm sorry?

ADDENDUM 114

1 MR. ANUNOBI: I have no further questions
2 for the witness. I have no further questions for the
3 witness.

4 THE COURT: Any Cross, Mr. Kelm?

5 MR. KELM: No, Your Honor.

6 THE COURT: Thank you, Ms. Huynh. You may
7 step down. You may call your next witness.

8 Mr. Huynh, if you would raise your right
9 hand.

10 MICHAEL TIEN HUYNH

11 called as a witness,

12 after having been first duly sworn,

13 was examined and testified as follows:

14 THE DEFENDANT: (Through the Interpreter)

15 Yes.

16 THE COURT: Thank you. Please have a seat
17 in the witness stand. Can you give us your full name,
18 please?

19 THE DEFENDANT: (Through the Interpreter)

20 Michael Tien Huynh.

21 THE COURT: Go ahead, Mr. Anunobi.

22 DIRECT EXAMINATION

23 BY MR. ANUNOBI:

24 Q Michael, where do you live, please?

25 A (Through the Interpreter) In Shakopee.

1 Q Okay. And what do you do for a living?

2 A (Through the Interpreter) I am a nail technician.

3 Q And how long have you been a nail technician?

4 A (Through the Interpreter) For more than 20 years.

5 Q Okay. Are you married?

6 A (Through the Interpreter) Yes.

7 Q Okay. And who are you married to?

8 A (Through the Interpreter) Kim Huynh.

9 Q Okay. Are you a U.S. citizen?

10 A (Through the Interpreter) Yes.

11 Q Were you born in the United States?

12 A (Through the Interpreter) I was born in Vietnam.

13 Q What city in Vietnam?

14 A (Through the Interpreter) Saigon.

15 THE INTERPRETER: S-A-I-G-O-N.

16 BY MR. ANUNOBI:

17 Q And when did you migrate to the United States?

18 A (Through the Interpreter) In 2001.

19 Q And when did you come to Minnesota?

20 A (Through the Interpreter) In 2003.

21 Q Where did you live before you came to Minnesota?

22 THE INTERPRETER: I am sorry. May I have --

23 BY MR. ANUNOBI:

24 Q Where were you living before you came to Minnesota?

25 A (Through the Interpreter) I lived in Iowa.

ADDENDUM 116

1 Q Okay. And do you still have family in Vietnam?

2 A (Through the Interpreter) Yes, I still do.

3 Q What family do you have?

4 A (Through the Interpreter) My mother, my two brothers,
5 and my nieces and nephews.

6 Q Okay. And you said you came to the United States in
7 2001. Why did you come to the United States?

8 A (Through the Interpreter) Okay. Ever since birth I
9 lived in Vietnam in a country -- totalitarian country,
10 no human rights, no freedom. Police can arrest anyone
11 any time and can even beaten them -- or beat them or
12 kill them. There are so many wrongful deaths. I
13 wanted to come to the United States for a better
14 future and for freedom.

15 Q Was there -- apart from these issues that you
16 mentioned, was there any other reason why you came?

17 A (Through the Interpreter) You know, I would like to
18 go to the United States not only for the freedom, but
19 also to work and to earn a living for myself and to
20 take care of my family.

21 Q And while you were -- while you were in Vietnam did
22 you have any kind of education?

23 A (Through the Interpreter) Yes, I did.

24 Q What was the highest education you had in Vietnam?

25 A (Through the Interpreter) Ninth Grade.

1 Q Okay. And then when you came to the United States did
2 you have any kind of education here?

3 A (Through the Interpreter) No, sir.

4 Q Did you learn the English language?

5 A (Through the Interpreter) No, sir.

6 Q Why not?

7 A (Through the Interpreter) Because I had to make a
8 living and to help my family in Vietnam.

9 Q And how do you help them? How do you help them?

10 A (Through the Interpreter) I just send them money.

11 Q Okay. Since you came to the United States have you
12 had any prior incidents with the police?

13 A (Through the Interpreter) Where -- the police from
14 where?

15 Q From America.

16 A (Through the Interpreter) No.

17 Q Have you ever been arrested or charged with any crime?

18 A (Through the Interpreter) No.

19 Q Do you have any thoughts about the American police
20 based on your experience in Vietnam?

21 A (Through the Interpreter) Because I have never had
22 any interaction or incidents with the American police,
23 so I haven't --

24 Q Do you need me to repeat the question?

25 A (Through the Interpreter) Yes.

APPENDUM 20118

1 Q Okay. Based on your experience with what the police
2 do in Vietnam, do you have any kind of feeling about
3 the police in America?

4 A (Through the Interpreter) I haven't had any incident
5 or get arrested by the American police, but I watch
6 on -- I watch them making arrests on TV. I became
7 afraid.

8 Q Why were you afraid?

9 A (Through the Interpreter) Because I can relate them
10 to the Vietnamese police.

11 Q In what way?

12 A (Through the Interpreter) I'm sorry?

13 Q In what way?

14 A (Through the Interpreter) Because the -- because the
15 Vietnamese police can make arrests and hit people, hit
16 people for no reason.

17 Q Okay. Are you worried about -- apart from hitting
18 people, are there other issues that make you worried
19 about the American police?

20 A (Through the Interpreter) I'm sorry?

21 Q Apart from the hitting of people -- you said they hit
22 people in Vietnam. Apart from people being hit, is
23 there another thing that potentially makes him afraid
24 of the American police?

25 A (Through the Interpreter) Because when I had the

Addendum 119

1 interaction with them I am afraid that they are going
2 to behave like Vietnamese police, so that would make
3 me very afraid.

4 Q Okay. So let us go to the incident of March 29, 2022.
5 Do you remember March 29, 2022?

6 A (Through the Interpreter) Yes.

7 Q Okay. And then please I want you to be very brief to
8 just say what happened on March 22 (sic.), and I am
9 going to be asking you questions on that, but just
10 speak slowly and briefly.

11 A (Through the Interpreter) On that day, I heard the
12 voice in my head telling me, "You go get killed,"
13 "You go get killed." So I -- I drove -- I drove to
14 169, and the voice gets louder and louder, and then it
15 keeps saying in my head, "Go get killed," "Go get
16 killed." So I swerved -- I swerved, and then I got
17 into an accident.

18 Q Okay. And then after the accident were you taken to
19 anywhere? After the accident were you taken to
20 anywhere?

21 A (Through the Interpreter) After the accident, I
22 got -- I lost my consciousness, and the ambulance took
23 me to the nearby hospital. Later on, I was
24 transferred to another hospital in Minneapolis.

25 Q Okay. And so did you -- you regained consciousness

1 after that, right?

2 A (Through the Interpreter) Yes.

3 Q Were you under any kind of medication at that time?

4 A (Through the Interpreter) Yes, I was.

5 Q And did -- did that medication have any effect on you?

6 A (Through the Interpreter) It make me tired, dizzy,
7 and headaches, and I heard voices in my ears, and I
8 feel like hallucinating.

9 Q Okay. And was that, like, a day after the accident?

10 A (Through the Interpreter) Yeah.

11 Q So tell the Court whether or not there were any family
12 members with you at the time you regained
13 consciousness?

14 A (Through the Interpreter) No.

15 Q When you regained consciousness was there anybody in
16 your room?

17 A (Through the Interpreter) Yes, there was.

18 Q What did you see?

19 A (Through the Interpreter) There was someone that was
20 watching me, and he was staring at me, and then I --
21 because I recalled what happened during my accident I
22 was afraid that I was going to get arrested.

23 Q And so did anything happen next?

24 A (Through the Interpreter) There -- later on, there
25 was a police who came in. The person who was watching

APPENDUM 121

1 me left.

2 Q Why did he leave?

3 A (Through the Interpreter) Because the police came in
4 and told the watcher to leave.

5 Q Before the police came in -- before the police came
6 in, the person you described as a police, did you
7 have -- who do you think the watcher was, the person
8 watching you?

9 THE INTERPRETER: Your Honor, I need the
10 question repeated.

11 THE COURT: Yeah. We've got to try a more
12 clear question there. That was very confusing.

13 MR. ANUNOBI: Okay.

14 THE COURT: Who did Mr. Huynh believe the
15 person was that was sitting in the chair watching him?

16 THE DEFENDANT: (Through the Interpreter) I
17 think he must have been a policeman.

18 BY MR. ANUNOBI:

19 Q Okay. And so when the second person came you thought
20 it was another -- did you think it was another
21 policeman too?

22 A (Through the Interpreter) He was a policeman.

23 Q Okay. That's what you thought? Okay. Okay. That's
24 fine.

25 A (Through the Interpreter) Yes. And told -- and told

ADDENDUM 122

1 the other person to leave.

2 Q Okay. So at that time -- just to be sure, at that
3 time you thought it was Policeman Number 2 asking
4 Policeman Number 1 to leave. Is that -- would that be
5 fair?

6 A (Through the Interpreter) Yes; and then that person
7 went on to talk to me.

8 Q Okay. And how did he talk to you?

9 A (Through the Interpreter) Because he tried to talk to
10 me, but because I didn't speak English, so they called
11 in -- they called in the Interpreter on the line. At
12 the time I was feeling fatigued, dizzy, my head hurt,
13 and I heard voices in the -- in my -- in my ears, and
14 then the police was there talking to me. Because the
15 police was facing me that make me feel very nervous
16 and intense.

17 Q Now, you just mentioned during this -- during your
18 Direct, you said you were afraid of the Vietnam
19 police, right, and also the American police. When
20 this police officer came how did you feel?

21 A (Through the Interpreter) I -- I felt afraid and
22 worried.

23 Q Why were you afraid and worried?

24 A (Through the Interpreter) I was afraid to -- of being
25 arrested.

1 Q Did it -- did the fear you have affect you? I mean,
2 tell the Court whether or not the fear you had
3 affected you in talking to the police officer.

4 A (Through the Interpreter) Yes, it did.

5 Q In what way?

6 A (Through the Interpreter) Umm, when I answered his
7 question and I didn't understand, I became afraid.

8 Q Okay. Now, this police officer that came in there --
9 well, I will rephrase the question. Before this
10 police officer came, have you ever heard of anything
11 called Miranda warning?

12 A (Through the Interpreter) No, sir.

13 Q Before the policeman asked you the questions did he
14 warn you that you had a right to keep silent?

15 A (Through the Interpreter) No, sir.

16 Q Did this police officer warn you that anything you
17 said could be used against you in the Courts?

18 A (Through the Interpreter) No, sir.

19 Q Did he advise you that you had a right to a lawyer?

20 A (Through the Interpreter) No, sir.

21 Q Did he advise you that if you did not have a lawyer a
22 lawyer will be provided for you?

23 A (Through the Interpreter) No, sir.

24 Q Did he advise you that you have a right not to
25 incriminate yourself compulsory?

ADDENDUM 124

1 A (Through the Interpreter) No, sir.

2 Q Now, at the time that you were answering the officer's
3 questions, did you give up your right to keep silent?

4 A (Through the Interpreter) No, sir.

5 Q Did you know that you had a right to keep silent?

6 A (Through the Interpreter) No, sir.

7 Q Did you know that you had a right -- well, did you
8 waive your right not to incriminate yourself
9 compulsory?

10 A (Through the Interpreter) No, sir.

11 Q At the time the officer spoke to you were you -- and
12 tell us whether or not -- whether it is true or not
13 were you in a mental -- were you mentally okay to
14 understand the police officer's questions and answer
15 them?

16 A (Through the Interpreter) My condition was not okay.

17 Q Before the officer came to you how long had you come
18 out of consciousness if you remember?

19 A (Through the Interpreter) The next day.

20 Q Okay. You came into the hospital on the 29th; is that
21 correct?

22 A (Through the Interpreter) Yes.

23 Q That's the 29th of March, 2022, correct?

24 A (Through the Interpreter) Yes.

25 Q And at the time you came in you were unconscious from

1 what you know now, right?

2 A (Through the Interpreter) Yes.

3 Q Okay. Do you -- do you -- do you have knowledge of
4 when you came out of unconsciousness whether it was
5 that day or the next day? Do you have any knowledge
6 of that?

7 A (Through the Interpreter) The next day.

8 Q The next day. And that was the same day that the
9 officer came. Would that be correct?

10 A (Through the Interpreter) Yes.

11 Q So the officer came to interview you just after you
12 had come out of unconsciousness. Would that be
13 correct?

14 A (Through the Interpreter) Yes.

15 Q Were you under medication at the time that the officer
16 came to talk to you?

17 A (Through the Interpreter) Yeah. I felt tired, dizzy,
18 I was still hearing voices in my head, and I feel like
19 my mind was -- I feel like it was -- I was walking on
20 the cloud.

21 Q And the officer spoke to you -- from what you said he
22 spoke to you through an Interpreter, right?

23 A (Through the Interpreter) Yes.

24 Q Was that Interpreter present in the room at that time
25 at the same time?

ADDENDUM 5126

1 A (Through the Interpreter) The Interpreter worked on
2 the phone.

3 Q And were you always understanding the communication
4 through the phone?

5 A (Through the Interpreter) Because at the time I was
6 still feeling fatigue and feeling dizzy, and I am
7 still hearing voices. So sometimes I understood.
8 Sometimes I didn't understand.

9 Q Now, did you voluntarily waive your right to counsel?

10 A (Through the Interpreter) No, sir.

11 Q Did you even know you had rights under the
12 Constitution of the United States?

13 A (Through the Interpreter) No, sir.

14 Q So did you know you had rights to keep quiet or to
15 counsel?

16 A (Through the Interpreter) No, sir.

17 Q So at the time you spoke to the officer was it with
18 knowledge of any rights?

19 A (Through the Interpreter) No, sir.

20 Q Now, after the police officer interviewed you did he
21 make any kind of record?

22 A (Through the Interpreter) There was a -- there was a
23 record.

24 Q Did you see the records made by the officer?

25 A (Through the Interpreter) Yes, I did, and my lawyer

ADDENDUM #27

1 has it.

2 Q How did you obtain the records?

3 A (Through the Interpreter) My lawyer provided it to
4 me.

5 Q Have you seen the records?

6 THE INTERPRETER: I'm sorry?

7 BY MR. ANUNOBI:

8 Q You have seen the records, right?

9 A (Through the Interpreter) Yes.

10 Q So if you see it right now you will recognize it?

11 A (Through the Interpreter) Yes.

12 MR. ANUNOBI: Your Honor, may I approach the
13 witness?

14 THE COURT: You may assume continued
15 permission, but there's been nothing to establish that
16 this witness can read in English.

17 MR. ANUNOBI: Yes.

18 THE COURT: I don't know how you can lay
19 foundation of English documents in front of someone
20 who doesn't read that language.

21 MR. ANUNOBI: Yes, Your Honor.

22 BY MR. ANUNOBI:

23 Q So, Michael, at the time you obtained these records
24 were you able to read them?

25 A (Through the Interpreter) When I -- when I saw it,

ADDENDUM 128

1 the first -- the first words, the title I could read.

2 Q Did anybody -- did -- because the records are written
3 in English and because you don't understand English,
4 were you able to have these records translated?

5 A (Through the Interpreter) Yes.

6 Q Did anybody read them to you?

7 A (Through the Interpreter) Yes. My nephew did.

8 Q What is his name?

9 A (Through the Interpreter) David Huynh.

10 Q Okay. And when he read these records to you did you
11 identify the records at the time you -- he read it to
12 you? Did you see it?

13 A (Through the Interpreter) Yes.

14 Q So if you see what your cousin David read to you or
15 interpreted to you would you recognize it?

16 A (Through the Interpreter) Yes.

17 Q How would you --

18 THE COURT: Counsel, please approach the
19 Bench, both of you.

20 (Off-the-record discussion at the Bench.)

21 BY MR. ANUNOBI:

22 Q Okay. So, Michael, you stated and you told -- you
23 spoke to the Court about what happens in Vietnam; is
24 that correct?

25 A (Through the Interpreter) Yes.

ADDENDUM : 129

1 Q And you spoke about how the police -- the actions of
2 the police in Vietnam when it comes to arresting
3 citizens. Do you recall that?

4 A (Through the Interpreter) Yes.

5 Q And based on what you stated earlier did you do
6 anything regarding that information? In other words,
7 did you do anything to be able to show what happens in
8 Vietnam with the police? Did you do anything?

9 A (Through the Interpreter) Are you talking about the
10 Vietnamese police?

11 Q Yes, the Vietnamese police. Did you do anything to
12 show what the police do in Vietnam? Did you do
13 anything? Did you obtain anything?

14 A (Through the Interpreter) Yes.

15 Q What did you obtain?

16 A (Through the Interpreter) I found a report.

17 Q How did you -- what reports did you obtain?

18 A (Through the Interpreter) I obtained a report from
19 the U.S. State Department on Vietnam -- on Vietnamese
20 human rights.

21 Q And, please, how did you obtain this report?

22 A (Through the Interpreter) I got it -- I got -- oh. I
23 got it from the Shakopee Library.

24 Q And when you got it from the Shakopee -- the Shakopee
25 Library how -- was it got from -- was it got from the

FILED

February 15, 2024

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APPELLATE COURTS**

1 internet or was it got from the library? how was it
2 obtained?

3 A (Through the Interpreter) Yes. I got it from the
4 internet.

5 Q And just because you don't understand English were you
6 able to have -- were you able to understand what this
7 report says?

8 A (Through the Interpreter) Yes, I was, because I had
9 help.

10 Q How did you -- what help did you have?

11 A (Through the Interpreter) My nephew, David Huynh.

12 Q What did your nephew do?

13 A (Through the Interpreter) He translated it and
14 explained it to me.

15 Q Did your nephew read the whole report to you?

16 A (Through the Interpreter) Yes.

17 Q Now, did you -- if you see this report that your
18 nephew translated to you would you recognize it?

19 A (Through the Interpreter) Yes, I can.

20 Q How would you recognize it?

21 A (Through the Interpreter) Yeah. When my -- my nephew
22 is reading it to me and I keep looking at it, so I am
23 used to seeing it.

24 Q Is there anything marked -- are there things on the
25 report that make you know that it is the correct one

ADDENDUM 31-31

1 (indicating)?

2 A (Through the Interpreter) Yes. There were names of
3 the deceased.

4 Q Okay.

5 MR. ANUNOBI: Your Honor, may I approach the
6 witness?

7 THE COURT: You may assume continued
8 permission.

9 BY MR. ANUNOBI:

10 Q At this time, I am going to show to you what is marked
11 as Vietnam 2022 Human Rights Report. Take a look
12 at that (handing). Is that -- tell the Court is that
13 a document that your nephew read and interpreted to
14 you?

15 A (Through the Interpreter) Yes.

16 MR. ANUNOBI: Your Honor, at this time, I
17 would wish to offer this document into evidence.

18 THE COURT: Mr. Kelm.

19 MR. KELM: Your Honor, I still have concerns
20 about the foundation. I also have concerns about
21 hearsay evidence. And, lastly, I have grave concerns
22 about any relevance to the hearing that we are having
23 today.

24 First, as we have discussed here, it's hard
25 to believe that he would be able to recognize this

ADDENDUM 9/32

1 English document without being able to read the
2 English language. Second, it's hard to believe that
3 someone read this 43-page document to him in its
4 entirety.

5 As far as hearsay, I think an argument could
6 be made that this is a public record made by the
7 United States Department of State, and it was a report
8 done under the duties of that department of the
9 Federal Government. However, the document itself
10 contains considerable hearsay, stories reported by
11 other individuals, and, therefore, I think the
12 document as a whole would still be considered
13 hearsay.

14 And, finally, I think the biggest hurdle
15 here is the relevance to the issue in front of the
16 Court.

17 MR. ANUNOBI: Your Honor -- oh.

18 MR. KELM: The Defendant has testified about
19 his own experiences in Vietnam and with the Vietnam
20 police, and that has come in as evidence today. I
21 think that should suffice for the point counsel is
22 trying to make.

23 However, this document contains no personal
24 knowledge, recollections, or case of action that
25 the -- that the Defendant has been involved in,

1 Your Honor. So I believe it's wholly irrelevant to
2 his testimony and the issue.

3 THE COURT: And to clarify this is a 2022
4 human rights report, Mr. Huynh having left Vietnam in
5 2001.

6 MR. ANUNOBI: Yes, Your Honor. Your Honor,
7 one of the things --

8 THE COURT: Please respond to the relevance
9 issue.

10 MR. ANUNOBI: Yes, Your Honor. I will
11 respond to relevance and I will respond to -- I will
12 respond to the hearsay.

13 THE COURT: I am just interested in the
14 relevance right now.

15 MR. ANUNOBI: Okay. Mr. Huynh testified
16 that before he left Vietnam he had lived there as an
17 adult, and he came in here at a later age, and he
18 testified as to his observations on what the police
19 do. He stated that the police torture people, that
20 the police arrest people. There is no human rights.
21 He said all of those things.

22 And, Your Honor, based on those things he
23 said, this report corroborates the same things and
24 this report actually says --

25 THE COURT: This corroborates what's

ADDENDUM 134

1 happened 20 years after he's been there.

2 MR. ANUNOBI: Yes. The report is saying --
3 the report is saying -- it is corroborating what he
4 saw 20 years ago and saying that it still happens in
5 Vietnam.

6 THE COURT: So this report covers the
7 conduct of police in the late '90s and early 2000s
8 when he would have been old enough to see and
9 remember?

10 MR. ANUNOBI: No. The report talks about
11 what happens in Vietnam today.

12 THE COURT: Okay. I am denying this. It is
13 not relevant. We have already heard the Defendant's
14 testimony about his experience with law enforcement
15 that will allow for the arguments that you wish to
16 make.

17 MR. ANUNOBI: Your Honor, can I ask the
18 Court to reconsider and I would just -- I just want to
19 make sure I fill it in, and I would ask the Court to
20 reconsider. Your Honor, first of all, from the
21 report, if the Court would look into the content of
22 the report. Your Honor, first of all --

23 THE COURT: I have.

24 MR. ANUNOBI: -- the business of --

25 THE COURT: I have looked at it.

ADDENDUM : 135

1 MR. ANUNOBI: Okay. Your Honor, the things
2 that happened in that report indicate things that have
3 happened over the past years.

4 THE COURT: Yes, for the past -- probably
5 they go back to as far back as 2017 is the oldest
6 reference I saw in there.

7 MR. ANUNOBI: Okay. Your Honor, in the
8 circumstances, if the Court would allow, I would with
9 the help of the Defendant bring in a report that
10 covers the period we are talking about in Vietnam, but
11 what --

12 THE COURT: Wait a minute. Is there any
13 dispute, Mr. Kelm, that Mr. Huynh's experience may
14 have been a corrupt police in Vietnam, which was part
15 of his reason for leaving that country as I understand
16 it? I don't think that's even disputed here.

17 MR. KELM: I have -- I have no reason to
18 dispute that, Your Honor.

19 THE COURT: Yeah.

20 MR. ANUNOBI: Okay. That's all right,
21 Your Honor. I will move on.

22 THE COURT: Thank you.

23 BY MR. ANUNOBI:

24 Q Now, Mr. Huynh, do you still take medication today?

25 A (Through the Interpreter) Yes, I still am.

ADDENDUM 136

1 Q What kind of medication do you take?

2 A (Through the Interpreter) Umm, I am still taking
3 anxiety, sleeping pills.

4 Q Okay. Do they affect you in any way?

5 A (Through the Interpreter) Yes. It makes me be -- it
6 makes me forgetful, feeling dizzy, and sleepy.

7 Q Okay. And then -- I'm sorry -- and just one last
8 thing. And do you still have an appointment -- do you
9 still have prescriptions for the same medication?

10 A (Through the Interpreter) Yeah. Yeah. I come to see
11 the doctor periodically.

12 Q Okay. At this time have you had any education in
13 English or -- have you had any further education in
14 English at this time?

15 A (Through the Interpreter) No, sir.

16 Q So since the accident have you had any additional kind
17 of education or gone to school?

18 A (Through the Interpreter) No, sir.

19 MR. ANUNOBI: Your Honor, I have no further
20 questions of the witness.

21 THE COURT: Cross-Examination, Mr. Kelm?

22 MR. KELM: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. KELM:

25 Q Do you recall talking to doctors on the 29th?

1 A (Through the Interpreter) I can't recall clearly.

2 Q Do you recall talking to doctors on the 30th?

3 A (Through the Interpreter) No, sir.

4 Q And you were here when your doctors testified,
5 correct?

6 A (Through the Interpreter) I don't recall.

7 Q You don't recall at the last hearing that you had two
8 doctors on the stand that testified?

9 A (Through the Interpreter) I do. Yeah. There were
10 two men.

11 Q And do you recall them telling us that they talked to
12 you on several different occasions and you refused to
13 speak to them?

14 A (Through the Interpreter) Yes.

15 Q And would you agree that happened three or four times
16 that you told doctors you would not answer their
17 questions and would not speak to them?

18 A (Through the Interpreter) I don't recall exactly.

19 Q Does that sound about right though? It was more than
20 once that you told doctors you weren't going to answer
21 the questions, correct?

22 MR. ANUNOBI: Your Honor, objection. Asked
23 and answered, Your Honor.

24 THE COURT: Overruled. Did you tell the
25 doctors you weren't going to answer their questions?

ADDENDUM : 138

1 THE DEFENDANT: (Through the Interpreter) I
2 don't recall.

3 BY MR. KELM:

4 Q So if it's documented in your medical reports that
5 your attorney submitted, and it shows at least three
6 times you told doctors you wouldn't talk to them,
7 those medical records would be correct?

8 A (Through the Interpreter) I don't know.

9 Q When you did talk to doctors was this person that you
10 described as sitting in your room staring at you in
11 the room?

12 A (Through the Interpreter) I don't recall when I
13 talked to the doctors, so I can't recall that.

14 Q Do you recall how long there was someone in your room
15 with you?

16 A (Through the Interpreter) The person who was watching
17 me stay in the room -- stayed in my room throughout.

18 Q So when people would come in and talk to you they
19 would stay there?

20 A (Through the Interpreter) Who are you -- who are you
21 referring to?

22 Q The person that was sitting in your room watching you.

23 A (Through the Interpreter) Yes.

24 Q They were always there?

25 A (Through the Interpreter) Yes.

ADDENDUM 1439

1 Q And do you recall what they were wearing?

2 A (Through the Interpreter) No, sir.

3 Q Do you know if they were wearing a police officer's
4 uniform?

5 A (Through the Interpreter) I don't recall what they
6 were wearing.

7 Q Do you recall if they had a gun?

8 A (Through the Interpreter) I didn't see it.

9 Q Do you recall if they had a badge?

10 A (Through the Interpreter) No.

11 Q And you now know that that was someone that worked for
12 the hospital, correct?

13 A (Through the Interpreter) Nobody told me that.

14 Q And do you know what medication you are on now,
15 specifically the names of those medications?

16 A (Through the Interpreter) I don't remember the name.

17 Q Of any medication that you take right now?

18 A (Through the Interpreter) Yes, I am taking, and I
19 have -- I have -- I have to go to doctor -- to my
20 mental health doctor.

21 Q But you don't know what any of those medications are?

22 A (Through the Interpreter) I -- I can recognize it,
23 but I don't remember the -- the names.

24 Q Do you remember at the last hearing when your doctor
25 was talking about Propofol, the medication you were on

ADDENDUM 140

1 in the hospital?

2 THE INTERPRETER: I'm sorry. May I hear,
3 counsel, the name Propofol?

4 MR. KELM: Yeah, I will repeat that.

5 BY MR. KELM:

6 Q Do you remember at the last hearing your doctor
7 talking about the medication Propofol that you were on
8 while you were in the hospital?

9 A (Through the Interpreter) No, I do not recall that.

10 Q Now, if he had said at that hearing that you were no
11 longer on that on the 30th, do you have any reason to
12 doubt what he testified about?

13 A (Interpreting in Vietnamese.)

14 MR. ANUNOBI: Objection, Your Honor, calls
15 for speculation.

16 THE COURT: No, it doesn't. Overruled. Do
17 you have a reason to doubt that he -- what he
18 testified about?

19 THE DEFENDANT: (Through the Interpreter) I
20 don't -- I don't know that. So I don't have any
21 doubt.

22 BY MR. KELM:

23 Q So do you recall the doctor saying that was the
24 medication that made you sleepy because it was a
25 sedative?

Addendum 141

1 A (Through the Interpreter) I didn't hear that.

2 Q Did you hear when he testified that that medication
3 leaves your body very quickly and would not have been
4 affecting you on the 30th?

5 A (Through the Interpreter) I don't recall that.

6 Q So when you spoke to the police officer that day did
7 he tell you that you didn't have to answer his
8 questions?

9 A (Through the Interpreter) I think -- I think I didn't
10 hear that. I don't remember.

11 Q And you know now that the officer was recording that
12 conversation, correct?

13 A (Through the Interpreter) Yes, perhaps.

14 Q And if I told you that recording showed that he told
15 you three times that you didn't have to talk to him do
16 you have any reason to dispute that recording?

17 A (Through the Interpreter) Perhaps. At the time I was
18 not in the right state of mind, I was so intense, and
19 then I didn't hear that.

20 Q Do you remember what the officer was wearing that day?

21 A (Through the Interpreter) No, sir.

22 Q Do you know if he had a gun on him?

23 A (Through the Interpreter) I think so. I didn't see
24 it. I don't know. I think he did.

25 Q When you were talking to the officer did he ever

ADDENDUM 4/42

1 threaten you?

2 A (Through the Interpreter) No, sir.

3 Q Did he ever make any promises to you?

4 A (Through the Interpreter) No, sir.

5 Q Did he tell you that if you wanted to have him leave
6 he would leave?

7 A (Through the Interpreter) I didn't hear that.

8 Q Now, again, if the recording of your conversation
9 showed that he said that twice to you do you have any
10 reason to dispute that recording?

11 A (Through the Interpreter) You know, I don't remember
12 whether I -- what I said. If -- whether he said that
13 or not, I don't recall.

14 Q Do you recall telling the officer that you were
15 willing to talk to him?

16 A (Through the Interpreter) That I don't recall
17 exactly.

18 Q So do you recall ten, fifteen minutes ago when your
19 attorney was asking you questions?

20 A (Through the Interpreter) Yes.

21 Q And do you remember telling your attorney several
22 things as far as you didn't give up certain rights,
23 you didn't tell him certain things?

24 A (Through the Interpreter) Yes, I heard that.

25 Q But now your testimony is that you don't really

ADDENDUM 143

1 remember anything? Is that correct?

2 A (Through the Interpreter) Some I remembered, some I
3 don't.

4 Q Do you remember what your conversation with the
5 officer was about?

6 A (Through the Interpreter) At the time, I was very
7 tired, dizzy, and a headache that -- that I can't
8 recall exactly what I said.

9 Q So if the recording of that conversation shows that
10 you gave very detailed answers about something that
11 happened two years prior do you have any reason to
12 dispute that?

13 A (Through the Interpreter) I don't know what to say.

14 Q Do you remember how long you talked to the officer?

15 A (Through the Interpreter) No, I can't -- I don't.

16 Q Would you agree it was more than a five or ten-minute
17 conversation?

18 A (Through the Interpreter) I don't recall.

19 Q When you did talk to doctors were you talking about
20 your medical care?

21 A (Through the Interpreter) Yes.

22 Q And do you recall when your doctors testified they
23 said you were pretty clear-headed and could make
24 decisions on your medical care?

25 A (Through the Interpreter) Yeah, the doctor had said

ADDENDUM 144

1 that.

2 Q So you claim now that you were tired and dizzy when
3 you were talking to the officer, correct?

4 A (Through the Interpreter) Yes.

5 Q Did you ever tell the officer that?

6 A (Through the Interpreter) Because the police didn't
7 ask me, so I didn't.

8 Q Do you think it's odd that you claim to not remember
9 anything and that you had dizziness and headaches, yet
10 the recording shows you talked quite some time with
11 the doctor about the events that happened two years
12 prior and were very detailed?

13 A (Through the Interpreter) What detail? I don't
14 recall.

15 Q All the details about what you did to your nephew.

16 A (Interpreting in Vietnamese.)

17 MR. ANUNOBI: Objection, Your Honor, that is
18 completely out of the scope of today's hearing.

19 THE COURT: The State is entitled to ask
20 questions to determine what he does recall seeing as
21 he is indicating so much of the conversation he does
22 not recall. He cannot cross-examine him as to the
23 facts of the case, but he can ask him what he said,
24 what he recalls saying that day.

25 Do you recall what you told the police about

1 your nephew, Mr. Huynh?

2 THE DEFENDANT: (Through the Interpreter)

3 Well, I -- I -- I did say that I am -- I was tired. I
4 had dizziness and headaches and my head is like --
5 it's like I am on the cloud. So whatever I said I
6 don't recall exactly.

7 THE COURT: I am not asking if you recall
8 exactly. I am asking if you recall talking to the
9 police about your nephew and the sexual assault
10 allegations?

11 THE DEFENDANT: (Through the Interpreter) I
12 don't recall exactly.

13 MR. KELM: I have nothing further,
14 Your Honor.

15 THE COURT: Any Redirect?

16 MR. ANUNOBI: Yes, Your Honor.

17 **REDIRECT EXAMINATION**

18 BY MR. ANUNOBI:

19 Q Mr. Huynh, do you recall that your doctor testified
20 here that you were mentally -- you were not mentally
21 okay when you were at Hennepin County Medical Center,
22 and I am talking about Dr. Heath? Do you recall?

23 A (Through the Interpreter) Yeah. Yes.

24 Q Why do you recall that?

25 A (Through the Interpreter) Yeah, because I remember

1 the doctor said that I was suffering from depression
2 at the time.

3 Q Do you recall the doctor saying -- okay. I will
4 skip that. Now, at the time that you spoke to the
5 police officer, at the time the police officer came to
6 your -- came to your -- came to ask you questions, he
7 was carrying a gun from what you said, correct?

8 THE INTERPRETER: Your Honor, I need the
9 question to be --

10 BY MR. ANUNOBI:

11 Q At the time the police officer came to your -- to
12 your room, he was carrying a gun. Would that be
13 correct?

14 THE INTERPRETER: Oh, okay.

15 THE DEFENDANT: (Through the Interpreter)
16 Perhaps he was.

17 BY MR. ANUNOBI:

18 Q Okay. And then he was not wearing a uniform?

19 A (Through the Interpreter) Yes.

20 Q And he was not wearing a badge?

21 A (Through the Interpreter) Yes.

22 Q Also, the first --

23 THE COURT: Wait a minute. Wait a minute.
24 These questions are leading, and the answers are
25 unclear. Was the officer wearing a badge?

ADDENDUM 147

1 THE DEFENDANT: (Through the Interpreter)

2 Yes.

3 THE COURT: Thank you.

4 THE INTERPRETER: Your Honor --

5 THE DEFENDANT: (Through the Interpreter)

6 No.

7 THE INTERPRETER: He said yes/no.

8 THE COURT: Okay. So let's try one more
9 time. Was the officer wearing a badge?

10 THE DEFENDANT: (Through the Interpreter)

11 No, Your Honor.

12 THE COURT: Was the officer wearing a
13 uniform?

14 THE DEFENDANT: (Through the Interpreter)

15 No.

16 BY MR. ANUNOBI:

17 Q And so the person that was watching you at the very
18 beginning was he wearing a badge?

19 A (Through the Interpreter) No, sir.

20 Q Was he wearing a uniform?

21 A (Through the Interpreter) I don't recall.

22 Q Was he wearing a gun?

23 A (Through the Interpreter) No.

24 Q Now, at the time that you were talking with the police
25 officer how were you feeling?

ADDENDUM 148

1 A (Interpreting in Vietnamese.)

2 THE COURT: I think this has been asked and
3 answered several times.

4 MR. ANUNOBI: Okay. Well, okay.

5 BY MR. ANUNOBI:

6 Q Mr. Huynh, tell the Court one way or the other at the
7 time that you met the police -- or you encountered the
8 police officer in your room you -- were you still
9 afraid?

10 THE COURT: Were you still what?

11 BY MR. ANUNOBI:

12 Q Were you still afraid of the police?

13 A (Through the Interpreter) Yes.

14 Q So in answering the questions for the police officer
15 is it correct to say you were afraid at the time?

16 A (Through the Interpreter) Yes.

17 Q If you had your -- at the time that the police officer
18 came did you really want to talk to him?

19 A (Through the Interpreter) At the time I did not.

20 Q So why then did you talk to him?

21 A (Through the Interpreter) Because I thought that he
22 is -- he was a police, so I had to talk to him.

23 Q If you didn't talk to him what did you think would
24 happen to you if you didn't talk to him?

25 A (Through the Interpreter) I was afraid that the

ADDENDUM 149

1 police would arrest me.

2 Q At the time that you spoke to the police officer did
3 you feel that you could get up and walk out of the
4 hospital? Did you feel you could just get up and walk
5 out on him?

6 A (Through the Interpreter) No, sir.

7 Q Did you feel you could stop from talking to him?

8 A (Through the Interpreter) No.

9 Q Did this feeling have anything to do with Vietnam or
10 the Courts one way or the other?

11 A (Through the Interpreter) Yes.

12 THE COURT: Which one?

13 THE DEFENDANT: (Through the Interpreter)

14 The police. The police arresting people is very
15 similar to Vietnam's.

16 BY MR. ANUNOBI:

17 Q Apart from the police arresting people what else do
18 the police do?

19 A (Through the Interpreter) Are you talking about
20 police in Vietnam?

21 Q Yes. Police in Vietnam, if they arrest people and
22 take them to the police department, does anything
23 happen?

24 A (Through the Interpreter) Okay. He -- they would
25 torture them, they would force them to confess, they

ADDENDUM 150

1 would beat them, and that person would come -- come
2 out with injuries.

3 Q Do you know of anybody that's had any injury?

4 A (Through the Interpreter) Yes, my friend.

5 Q Okay. All right. And, finally, Mr. Huynh --
6 Mr. Huynh -- sorry -- you were able to remember what
7 the doctor said about your mental state?

8 A (Through the Interpreter) You mean the doctor from
9 the hospital?

10 Q Yeah, the one, Dr. Heath, yes. You were able to
11 remember what he said about you not being mentally
12 okay. You remember that, right? Let me rephrase the
13 question. You just said now that you remember that
14 Dr. Heath said you were not okay, correct?

15 A (Through the Interpreter) Yes.

16 Q When you were in Hennepin County Medical Center?

17 A (Through the Interpreter) Yeah.

18 Q Do you then remember everything Dr. Heath said here?
19 Do you remember everything he said about you when he
20 was here?

21 A (Through the Interpreter) No, I don't remember much.

22 Q Okay. Do you also remember everything Dr. Randy
23 Ward said about you when he was testifying here? Do
24 you?

25 A (Through the Interpreter) I -- I do not recall all of

ADDENDUM 151

1 them, not very clearly.

2 Q Well, you just recalled this, right?

3 THE INTERPRETER: I'm sorry. May I --

4 MR. ANUNOBI: No. I have no further
5 questions. That's fine.

6 THE COURT: Anything else, Mr. Kelm?

7 MR. KELM: Just briefly, Your Honor.

8 RECROSS-EXAMINATION

9 BY MR. KELM:

10 Q So you just testified that you remember when you were
11 talking to the officer you felt like you could not
12 ask him to leave and you could not tell him that
13 you did not want to answer his questions; is that
14 correct?

15 A (Through the Interpreter) Yes.

16 Q But are you testifying you don't remember the officer
17 telling you several times he would leave and that you
18 didn't have to answer his questions?

19 A (Through the Interpreter) No, I don't remember that.

20 Q And you don't remember anything your doctor said
21 except that you were mentally unwell?

22 A (Through the Interpreter) I don't remember clearly.

23 Q Do you think it's odd that you only remember things
24 that are helpful to your attorney's argument?

25 A (Through the Interpreter) If you say so. I don't

1 know what to say.

2 MR. KELM: I have nothing further,
3 Your Honor.

4 THE COURT: Anything else?

5 MR. ANUNOBI: Yes.

6 FURTHER REDIRECT EXAMINATION

7 BY MR. ANUNOBI:

8 Q Do you -- do you know your attorney's arguments?

9 THE INTERPRETER: May I hear that again?

10 BY MR. ANUNOBI:

11 Q Do you know your attorney's arguments?

12 A (Through the Interpreter) I do.

13 Q Are you an attorney?

14 A (Through the Interpreter) No.

15 Q Do you know the argument your attorney plans to make?

16 A (Interpreting in Vietnamese.)

17 THE COURT: Asked and answered.

18 MR. ANUNOBI: That's all right, Your Honor.

19 THE COURT: Anything else, Mr. Kelm?

20 MR. KELM: No, Your Honor.

21 THE COURT: All right. Thank you,

22 Mr. Huynh. You can step down. Anything else on
23 behalf of the Defendant, Mr. Anunobi?

24 MR. ANUNOBI: The only -- sorry.

25 Your Honor, I'm sorry. Well, I have nothing else

1 to -- I have no other witnesses, Your Honor.

2 THE COURT: Very well. Would you like to
3 submit written argument?

4 MR. ANUNOBI: Yes, Your Honor. I was going
5 to request that.

6 THE COURT: Oh. Hang on.

7 MR. ANUNOBI: Yes, I was going to request
8 to -- oh. I'm sorry.

9 THE COURT: You can leave that, Lana.

10 THE INTERPRETER: Okay.

11 MR. ANUNOBI: Your Honor, I was --

12 THE COURT: Just let her get settled there.

13 She is trying to --

14 Would you like to submit written argument
15 pertaining to your position on suppression of the
16 statement?

17 MR. ANUNOBI: Yes, Your Honor. I was going
18 to ask for sufficient time to submit written
19 arguments.

20 THE COURT: How much time would you need?

21 MR. ANUNOBI: Your Honor, can I have
22 until --

23 THE COURT: I normally say about two
24 weeks --

25 MR. ANUNOBI: Oh, my.

ADDENDUM 154

1 THE COURT: -- to get it moved forward.

2 MR. ANUNOBI: Your Honor, my problem is that
3 I am preparing for a matter at the Court of Appeals
4 that comes up in December, and I have a second hearing
5 in District Court that requires an argument. Can I
6 just have a little more time, please?

7 THE COURT: Very well. We will go out then
8 to the 15th. We will give you a month.

9 MR. ANUNOBI: Okay. That's fine,
10 Your Honor.

11 THE COURT: 12-15 for the defense
12 submission. How much time would you like to respond,
13 Mr. Kelm?

14 MR. KELM: Your Honor, typically, I would
15 ask for two weeks, but I will be out most of the week
16 of Christmas between the 25th and 29th.

17 THE COURT: All right. Do you want to go
18 three then, January 5th?

19 MR. KELM: Let me see. Do we have -- we
20 don't start trials until the 8th; is that correct?

21 THE COURT: There are --

22 MR. KELM: Yeah. I am looking at my
23 calendar. That should be fine, Your Honor.

24 THE COURT: Okay. All right. Then what
25 happens, Mr. Huynh, is that the Court will take it

1 under advisement as of January 5th. The Court will
2 issue an Order with its ruling, and that Order will
3 also contain your next court date. It is important
4 that you stay in contact with your attorney because
5 that's how you are going to know when to return to
6 court.

7 All your conditions of release will still
8 apply, and we will anticipate that we will return for
9 a Settlement Conference or an Omnibus Hearing once a
10 ruling has been made. Any questions about what's
11 going on today?

12 THE DEFENDANT: (Through the Interpreter)

13 No, Your Honor.

14 THE COURT: All right. Very good. Thank
15 you.

16 MR. ANUNOBI: Your Honor --

17 THE COURT: Thank you, Ms. Nguyen, for your
18 help today.

19 THE INTERPRETER: You are welcome.

20 MR. ANUNOBI: -- just off the record. I
21 want to see when I can obtain a transcript of the
22 doctor's testimony, Dr. Heath only. I am just
23 wondering where I can make the arrangements.

24 THE COURT: You will have to talk to
25 Ms. Johnson. She will make those arrangements for

ADDENDUM 156

1 you. And then you can collect your unused copy of the
2 exhibit that's up on the Bench.

3 MR. ANUNOBI: Yes, I will do that. Thank
4 you.

5 THE COURT: Great. Thank you.

6 MR. KELM: Thank you, Your Honor.

7 THE COURT: We are in recess.

8 (Proceedings concluded.)
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1
2 STATE OF MINNESOTA)

3) REPORTER'S CERTIFICATE

4 COUNTY OF SCOTT)

5
6
7 I, **Mary C. Johnson**, do hereby certify that
8 the foregoing transcript, consisting of the preceding
9 62 pages, is a true and complete transcript of the
10 proceedings had of record.

11
12 Dated: December 3, 2023

13
14
15 /s/Mary C. Johnson

16 **Mary C. Johnson, RPR, CRR, CRC**
17 Official Court Reporter
18 Scott County Government Ctr.
19 200 Fourth Avenue West
20 Shakopee, MN 55379
21 (952) 496-8219
22
23
24
25

ADDENDUM : 158

State of Minnesota
County of Scott

District Court
1st Judicial District

Prosecutor File No.
Court File No.

196870-22
70-CR-22-14898

State of Minnesota,

Plaintiff,

COMPLAINT

Summons

vs.

MICHAEL TIEN HUYNH DOB: 10/31/1970

1560 Village Square Blvd.
Shakopee, MN 55379

Defendant.

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Criminal Sex Conduct-1st Degree-Penetration-Victim 13-15 - Position of Authority

Minnesota Statute: 609.342.1(b), with reference to: 609.342.2(b)

Maximum Sentence: 144-month mandatory minimum

Offense Level: Felony

Offense Date (on or about): 01/01/2021 to 12/31/2021

Control #(ICR#): 22005990

Charge Description: On or about 1/1/2021 to 12/31/2021, within the County of Scott, State of Minnesota, Michael Tien Huynh, DOB: 10/31/1970 (52), did engage in sexual penetration with another person or in sexual contact with a person at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a current or recent position of authority over the complainant.

COUNT II

Charge: Criminal Sexual Conduct-1st Degree-Penetration/Contact - Victim Under 16 - Significant Relationship

Minnesota Statute: 609.342.1(g), with reference to: 609.342.2(b)

Maximum Sentence: 144-month mandatory minimum

Offense Level: Felony

Offense Date (on or about): 01/01/2021 to 12/31/2021

Control #(ICR#): 22005990

Charge Description: On or about 1/1/2021 to 12/31/2021, within the County of Scott, State of Minnesota, Michael Tien Huynh, DOB: 10/31/1970 (52), did engage in sexual penetration with another person, or in sexual contact with a person under 13 years of age, and the actor had a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual act.

ADDENDUM 159

Charge: Criminal Sex Conduct-2nd Degree-Victim 13-15-Position Authority

Minnesota Statute: 609.343.1(b), with reference to: 609.343.2(a)
Maximum Sentence: 25 years imprisonment and/or a \$35,000 fine
Offense Level: Felony

Offense Date (on or about): 01/01/2021 to 12/31/2021

Control #(ICR#): 22005990

Charge Description: On or about 1/1/2021 to 12/31/2021, within the County of Scott, State of Minnesota, Michael Tien Huynh, DOB: 10/31/1970 (52), did engage in sexual contact with another person and the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a current or recent position of authority over the complainant.

COUNT IV**Charge: Criminal Sex Conduct-2nd Degree-Significant Relationship-Victim Under 16 yrs**

Minnesota Statute: 609.343.1(g), with reference to: 609.343.2(a)
Maximum Sentence: 25 years imprisonment and/or a \$35,000 fine
Offense Level: Felony

Offense Date (on or about): 01/01/2021 to 12/31/2021

Control #(ICR#): 22005990

Charge Description: On or about 1/1/2021 to 12/31/2021, within the County of Scott, State of Minnesota, Michael Tien Huynh, DOB: 10/31/1970 (52), did engage in sexual contact with another person and the actor had a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact.

COUNT V**Charge: Criminal Sex Conduct-3rd Degree-Victim 13-15-Actor is Greater Than 24 months older but Less Than 48 months older**

Minnesota Statute: 609.344.1(b), with reference to: 609.344.2(1)
Maximum Sentence: 15 years imprisonment and/or a \$30,000 fine
Offense Level: Felony

Offense Date (on or about): 01/01/2021 to 12/31/2021

Control #(ICR#): 22005990

Charge Description: On or about 1/1/2021 to 12/31/2021, within the County of Scott, State of Minnesota, Michael Tien Huynh, DOB: 10/31/1970 (52), did engage in sexual penetration with another person when the complainant was at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant.

COUNT VI**Charge: Criminal Sex Cond-4th Degree-Victim 13-15-Act >48m Old**

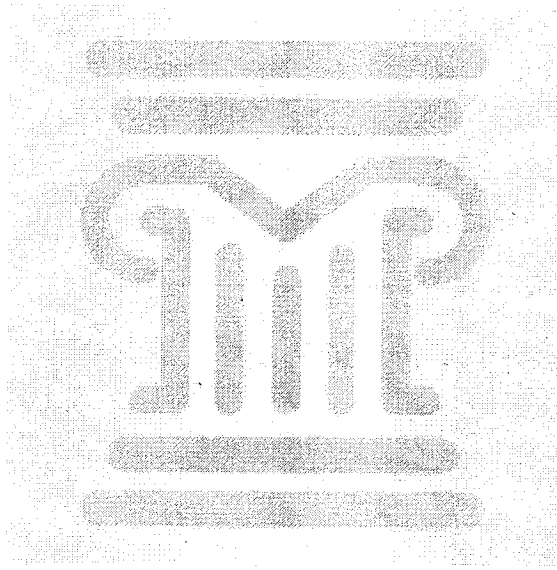
Minnesota Statute: 609.345.1(b), with reference to: 609.345.2
Maximum Sentence: 10 years imprisonment and/or a \$20,000 fine
Offense Level: Felony

Offense Date (on or about): 01/01/2021 to 12/31/2021

Control #(ICR#): 22005990

ADDENDUM 12/16/20

Charge Description: On or about 1/1/2021 to 12/31/2021, within the County of Scott, State of Minnesota, Michael Tien Huynh, DOB: 10/31/1970 (52), did engage in sexual contact with another person when the complainant was at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant or in a current or recent position of authority over the complainant.



MINNESOTA JUDICIAL BRANCH

The Complainant states that the following facts establish probable cause:

On 03/21/22 Detective McLain of the Shakopee Police Department was notified about a possible sexual assault. It was reported that Victim 1 may have been "raped" by his uncle. Based on this report officers set up a meeting with Victim 1.

Victim 1, who was born in October 2005, told officers that his uncle, later identified as Michael Tien Huynh, DOB 10/31/1970, made Victim 1 suck Huynh's penis. Victim 1 stated that Huynh also tried to put his penis in Victim 1's body. He stated that Huynh's penis was erect when it was in his mouth, and it was in his mouth for two or three minutes. Victim 1 stated that Huynh made him suck his penis by putting his hands around Victim 1's head. Victim 1 stated that he told Huynh "No." Victim 1 stated that Huynh forced Victim 1's mouth onto his penis.

Victim 1 stated that after Huynh made him suck Huynh's penis he was scared and didn't know what to do so he went to take a shower. Victim 1 stated that after the shower he went to his room and was naked. Huynh then came into the room and pushed Victim 1 onto the bed and Huynh tried to stick his penis in Victim 1. Victim 1 stated that Huynh never stuck his penis in Victim 1, but at one point Huynh put a finger in Victim 1's anus. Victim 1 stated he was scared and ran outside and went to his neighbors. Victim 1 stated that his mom and aunt told him he cannot tell anyone. Victim 1 stated this happened one year ago at his home in Shakopee Scott County, Minnesota. Officers were latter able to confirm through all parties that it was before Christmas of 2020. Victim 1 was 15 years old at the time.

Victim 1 was living with his mom at Huynh's and Victim's aunt's shared home when this happened. Victim 1 refers to Huynh as his uncle although Huynh and Victim 1's aunt are not married. Victim 1's aunt later told officers that she and Huynh bought all Victim 1's clothes, underwear and provided any needs he had when Victim 1 came to this country.

Officers later spoke to Witness 1, Victim 1's mom. Witness 1 confirmed that Victim 1 told her what happened at the time. She said officers should not believe Victim 1. She stated she is Victim 1's mother and even she does not like him.

Officers spoke to Witness 2, Victim 1's aunt. Witness 2 stated she remembered the incident and remembered Victim 1 running out of the house to the neighbors. She stated later that evening Victim 1 told her that Huynh had touched him. Witness 2 stated she did not believe him.

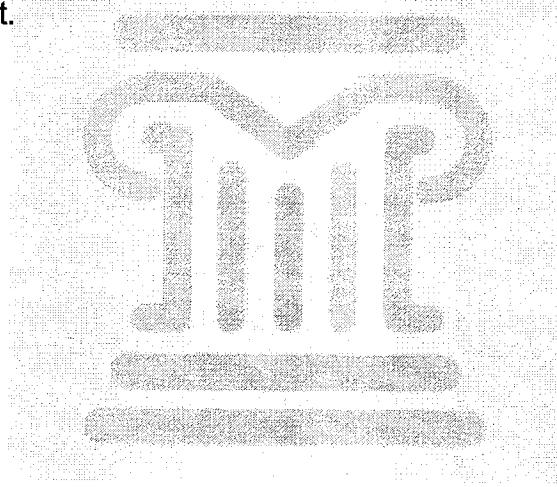
Officers spoke to Witness 3, Victim 1's neighbor, who confirmed that Victim 1 did come to her house one night around that time period and Victim 1 would not tell her exactly what happened, but she assumed it was some type of harassment. Witness 3 stated that she learned that before she arrived Victim 1 had run out of his house screaming and came to her house, but she was not home.

After speaking to Witness 2 officers learned that Huynh had been in a car accident. Officers learned that it was believed that Huynh had attempted suicide by wrapping a cord around his neck while driving. It was reported Huynh lost consciousness and hit another vehicle. Officers later found out that Huynh had been cited for driving the wrong way on a one way approximately two hours before his car accident. Officers responding to the accident stated that they saw Huynh trying to choke himself with the cord when they arrived.

Officers spoke to Huynh who stated that what Victim 1 said is not totally right. He said Victim 1 wanted it and that is why he did it. Huynh stated that Victim 1 pulled down Huynh's pants and held Huynh's penis. Huynh stated Victim 1 put Huynh's penis in Victim 1's mouth. Huynh stated that Victim 1 was joking and teasing after it happened and then Victim 1 ran to the neighbor's house. Huynh stated he was erect at the time that Victim 1 did this, but he did not ejaculate. Huynh stated he knew Victim 1 was 15 years old at the time. Huynh confirmed he was attempting to hurt himself during the accident. He stated he tried to crash into a truck and die.

Huynh is described as a 52-year-old Asian male brown eyes, standing 5'06" tall and weighing 145 lbs.

PLEASE TAKE NOTICE: Pursuant to Minn. Stat. 609.49., intentional failure to appear for duly scheduled court appearances may result in additional criminal charges, and in addition to any arrest warrant that may otherwise be issued by the Court.



MINNESOTA
JUDICIAL
BRANCH

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Jamie Pearson
Sergeant
475 Gorman Street
Shakopee, MN 55379
Badge: 62

Electronically Signed:
12/02/2022 08:08 AM
Scott County, Minnesota

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Steven Kelm
200 4th Avenue W
Shakopee, MN 55379
(952) 496-8240

Electronically Signed:
12/02/2022 07:49 AM

70-CR-22-14698
FINDING OF PROBABLE CAUSE

Filed in District Court
State of Minnesota
12/2/2022

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

☒ **SUMMONS**

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear as directed in the Notice of Hearing before the above-named court to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

☐ **WARRANT**

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

☐ **Execute in MN Only**

☐ **Execute Nationwide**

☐ **Execute in Border States**

☐ **ORDER OF DETENTION**

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$

Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: December 2, 2022.

Judicial Officer

Paula Duggan Vraa
District Court Judge

Electronically Signed: 12/02/2022 09:05 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF SCOTT
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Michael Tien Huynh

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE

*I hereby Certify and Return that I have served a copy of this
Summons upon the Defendant herein named.*

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Filed in District Court
State of Minnesota
12/2/2022

Name: Michael Tien Huynh
DOB: 10/31/1970
Address: 1560 Village Square Blvd.
Shakopee, MN 55379

Alias Names/DOB:

SID:

Height:

Weight:

Eye Color:

Hair Color:

Gender:

Race:

Fingerprints Required per Statute:

Yes

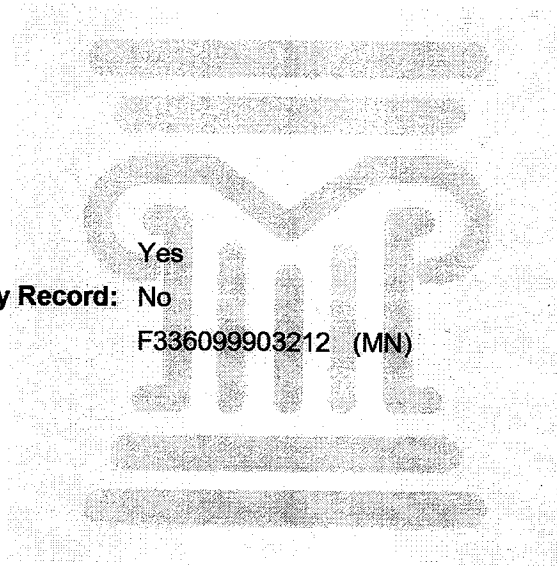
Fingerprint match to Criminal History Record:

No

Driver's License #:

F336099903212 (MN)

Alcohol Concentration:



MINNESOTA
JUDICIAL
BRANCH

**Minnesota Appellate Courts**

Help

**Case Management System****Case Management**[Case View](#)
[ORCA Info](#)**Case Information**

Case Number: A24-0269 **Filing Date:** 02/15/2024

Jurisdiction: Court of Appeals **Status:** Closed

ORCA: Scott County District Court **Hearing Type:** Special Term

Classification: Abbreviated Adversarial - Petition for Discretionary Review (Rule 105) - Other

Short Title: State of Minnesota, Respondent, vs. Michael Tien Huynh, Petitioner.

Full Title: State of Minnesota, Respondent, vs. Michael Tien Huynh, Petitioner.

Summary:

Citation:

+ Display Party Information**Docketing Filter View****Display:** Chronological ▾**Go!****Docket Information**

Document Description	Jurisdiction	Filing Date	Docket Entry Type	Filing Type	Status	PDF
Order - Deny Discretionary Review	Court of Appeals	03/19/2024	Order	Deny Discretionary Review	Final	
Affidavit - Service on District Court	Court of Appeals	02/19/2024	Affidavit	Service	Final	
Affidavit - Service	Court of Appeals	02/19/2024	Affidavit	Service	Final	
Notice - Case Filing	Court of Appeals	02/16/2024	Notice	Case Filing	Final	
Petition - Discretionary Review	Court of Appeals	02/15/2024	Petition	Discretionary Review	Final	

**Minnesota Appellate Courts**

Help ?

Case Management System**Case Management****Case View**
ORCA Info**Case Information**

Case Number:	A24-0269	Filing Date:	02/15/2024
Jurisdiction:	Court of Appeals	Status:	Closed
Short Title:	State of Minnesota, Respondent, vs. Michael Tien Huynh, Petitioner.	Hearing Type:	Special Term

Originating Court/Agency Information

Appeal From:	District Court
Court/Agency:	Scott County District Court

Other:**Court/Agency Case**

Orig. Case Number:	70-CR-22-14898
Orig. Case Title:	State of Minnesota vs Michael Tien Huynh

Related Case Number(s):**Decisionmaker(s)**

Caroline H. Lennon

STATUTE AND OFFENSE GRID

Filed in District Court
State of Minnesota
12/2/2022

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	1/1/2021	609.342.1(b) Criminal Sex Conduct-1st Degree-Penetration-Victim 13-15 - Position of Authority	Felony	L1153	N	MN0700400	22005990
	Penalty	1/1/2021	609.342.2(b) Criminal Sexual Conduct-1st Degree-Penalty-Presumptive 144 mo.	Felony	L1153	N	MN0700400	22005990
2	Charge	1/1/2021	609.342.1(g) Criminal Sexual Conduct-1st Degree-Penetration/Contact - Victim Under 16 - Significant Relationship	Felony	L1143	N	MN0700400	22005990
	Penalty	1/1/2021	609.342.2(b) Criminal Sexual Conduct-1st Degree-Penalty-Presumptive 144 mo.	Felony	L1143	N	MN0700400	22005990
3	Charge	1/1/2021	609.343.1(b) Criminal Sex Conduct-2nd Degree-Victim 13-15-Position Authority	Felony	L3153	N	MN0700400	22005990
	Penalty	1/1/2021	609.343.2(a) Criminal Sexual Conduct-2nd Degree-Penalty-Stat. Max.	Felony	L3153	N	MN0700400	22005990
4	Charge	1/1/2021	609.343.1(g) Criminal Sex Conduct-2nd Degree-Significant Relationship-Victim Under 16 yrs	Felony	L3143	N	MN0700400	22005990
	Penalty	1/1/2021	609.343.2(a) Criminal Sexual Conduct-2nd Degree-Penalty-Stat. Max.	Felony	L3143	N	MN0700400	22005990
5	Charge	1/1/2021	609.344.1(b) Criminal Sex Conduct-3rd Degree-Victim 13-15 Actor >24m older	Felony	L5143	N	MN0700400	22005990
	Penalty	1/1/2021	609.344.2(1) Criminal Sexual Conduct-3rd Degree-Penalty	Felony	L5143	N	MN0700400	22005990
6	Charge	1/1/2021	609.345.1(b) Criminal Sex Cond-4th Degree-Victim 13-15-Act >48m Old	Felony	L7143	N	MN0700400	22005990
	Penalty	1/1/2021	609.345.2 Criminal Sex Cond-4th Degree-Penalty	Felony	L7143	N	MN0700400	22005990

Supplemental Report

ICR: 22005990

Last Modified: 04-04-2022 1312

Title: Follow-up #3 - MM81

Created By: Michael McLain

SHAKOPEE POLICE DEPARTMENT

FOLLOW-UP REPORT

Detective McLain #81

3/31/2022

Audio Stmt: Y Photos: N Squad Video: N - Sqd #N/A Body Camera: N

On 3/30/2022, I, Detective McLain contacted HCMC where Michael Huynh was a patient in the Surgical Intensive Care Unit (SICU). I spoke with nursing staff who informed me Michael had been extubated and I could come and speak with him.

When I arrived at the nurses' station for the SICU, I started my recorder and was escorted to Michael's room. I observed his eyes were open and he was laying in a hospital bed. There was a male staff member in the room with Michael. I was informed Michael had been placed on one to one care due to possible self harm. The male staff member exited the room. I tried introducing myself to Michael as I had been told he knew some English. It appeared he was having a hard time understanding me so, I contacted the language line and requested a Vietnamese interpreter. The Vietnamese interpreter advised her name was Bacha and her identifying number was 385850. I started by identifying Michael to the interpreter and then identifying myself.

I asked the interpreter to inform Michael first and foremost he did not need to speak with me. I asked the interpreter to pass that along to Michael. I also explained that typically I would tell the person I am speaking with that they can leave. But since he had to remain at the hospital for safety concerns, if he did not want me in his room he could ask me to leave and I would. I asked if he understood and he responded with, "You can tell me whatever you want to say". I then told him, "I am going to ask you questions" and I asked if he was ok with that. I then asked, "Or do you not want to speak with me?". He replied, "Yeah". I confirmed with the interpreter that Michael stated he wished to speak with me and she said yes.

The following is a synopsis of Michael's statement:

I started by asking him basic questions:

- His name? He identified himself as Michael Huynh, DOB 10/31/1970
- His address? 1560 Village Square Blvd, Shakopee 55379
- How long had he lived at that address? He stated 12 years
- I asked who he lived with. He said his girlfriend, Tan and Tan's mom
- He said his girlfriend's name is Kim, and Tan's mom's name is Nga
- I asked how long Tan has lived with him and he stated almost three years
- I asked if he knew why I was there to speak with him. He stated, "I know". I asked him to explain.

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I asked again if he wanted to explain why he thought I was there and he just wanted me to ask questions. He then said what Tan says is not totally right

- He said because the first time Tan wanted it herself (he meant himself)
- He said Tan wanted it and that is why he did it to me
- I asked for clarification as to what that means. Tan did what? His response was, "He pull it down, he did it himself"
- I asked what Tan pulled down? His response was, "The pants". I asked who's pants? He said, "Tan pulled down his pants and hold his penis"
- I asked Michael's? Michael answered me directly saying, "Yes", confirming Tan pulled down Michael's pants
- There was a pause and I could see this was difficult for Michael to talk about. I tried saying to the interpreter to remind Michael he did not need to speak with me, but Michael started saying, "Tan hold Michael's penis"
- I asked if Tan ever placed Michael's penis in his mouth? Michael responded directly to my questioning without the interpreter saying, "Yes"
- The interpreter asked anyway, confirming my question and Michael responded, "Yes"
- I asked Michael if he could explain what happened leading up to that incident. He replied, "He said nothing, we just go together". I did not understand the rest so, I confirmed the rest with the interpreter. He gave a very vague answer
- He said they were just around the house and said Tan wanted to do that
- I then said to the interpreter, "Tan wanted to do that?" Michael responded to me, "Yeah"
- The interpreter confirmed by asking in Vietnamese and Michael responded with, "Yeah"
- I could see this was very tough for Michael to talk about, so I asked the interpreter to remind Michael he did not need to speak with me and he can tell me to leave at any time. I asked if Michael still wanted to speak with me and Michael said yes
- A hospital employee entered the room to give Michael his food. I asked the employee if he would shut the door as there was noise coming from the hallway and I did not want it to disrupt the audio recorded statement
- I asked where it happened in the house. Michael answered me directly without the interpreter. He said, "Basement"
- I asked if it was in Tan's room. Michael said, "No, it happened outside"
- I asked if it happened outside of his room and he said yes
- I asked for clarification whether it was the hallway, living room, or where in the basement

ADDENDUM 169

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- He responded outside of his room
- I then said so, in the hallway? Michael responded directly, not in the hallway
- He just repeated in the basement, not the bedroom
- I asked where Tan was located. Michael said Tan was standing
- I asked what time of day this happened. He said it was in the evening, but did not know what time
- I asked what month or year this took place. He thought about it for a while, but eventually said it may have been November, but did not really remember
- I asked if it was this last November and he said, "Yes". I asked to confirm it was this most recent November. He said he could not remember, then said it was 2020
- I asked if the time he was speaking about was the time Tan ran out of the house and went to the neighbor's. He responded, "Tan was joking and teasing after it happened and then Tan ran out to the neighbor's house"
- I asked what Michael told Kim and Nga about what happened. He said he did not say anything
- I asked if Kim or Nga ever asked Michael what happened. He said they asked him, but he did not say anything
- I prefaced the next question based on his initial response of, "The first time" at the beginning of the statement. I asked him how many times did this happen, because he said this was the first time. He said, "That earlier it was just joking, nothing happened"
- I asked him if he ever stuck his hand down the back of Tan's pants and he said, "No"
- I asked if he touched Tan inappropriately any other time. He said, "No". He said the other time they were just teasing each other and joking
- I mentioned that Michael had said, "Tan wanted it". I asked what he meant by that. He said, "The first time Tan touched it, he liked it. He said at home, Tan is usually close to him and hangs out with him"
- I asked if Tan asked if he could pull down Michael's pants. He said, "He wanted"
- I asked if Michael gave Tan permission to pull down his pants and Michael said, "Yes"
- I asked after he pulled down his pants, if Tan pulled down his underwear. He stated it was just the zipper
- I asked if Tan took out Michael's penis and he said, "Yes"
- I asked if Tan was standing or on his knees. Michael said he was on his knees
- I asked if Tan put Michael's penis in his mouth and he said, "Yes"

ADDENDUM 170

- I asked if Michael's penis was hard, and he said, "Yes"
- I asked how long did that last. He said, "I don't remember how long, but he used his mouth"
- I asked if he ejaculated and he said, "No"
- I asked why did it stop or who stopped it. Michael said he was the one who stopped it
- I asked if anything like that has happened since and he said, "No"
- I asked how old Tan was. Michael stated, "16 years old" or more than 16
- I asked if he knew how old Tan was when the event happened and he said 15
- He said he and Tan hung out together in the house a lot. Tan touched him, he allowed it to happen and he is regretting it now
- I asked if he tried hurting himself yesterday morning during the accident on 169. He said, "Yes, I'm sorry"
- I asked if he could explain how the accident happened if he remembered. He said he tried to crash into a truck and die, but he does not remember which car he hit
- I asked if it happened that long ago, why didn't it happen again? He said, "I didn't want to be near him again"
- I asked if Tan ever tried to come on to him again after that. He said, "No, he just asked me to take him to school, but nothing happened"
- I asked what Tan said to him just before the incident when he approached him. He said, "I don't remember, he said Tan was teasing him and then Tan started touching him"
- He does not recall the teasing (what was said). I asked if the teasing was sexual in nature and he responded, "Not sexual stuff, but like sex, like male and female"

I concluded the interview at this time. The recorded statement will be downloaded to Winscribe.

I contacted Nga and informed her Michael admitted to the sexual assault, and allowed her to ask questions. She did not believe Michael was telling the truth. She did not believe he did it.

Please forward a copy of this report to the Scott County Attorney's Office for charges against Michael Huynh for 2nd Degree CSC - 609.343.1(a) (F).

I have no additional information regarding this incident at this time.

End of report MM81

ADDENDUM 171

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FILED

Transcript of Police Interrogation of Michael Tien Huynh on March 10, 2024

Police officer: I am here with Michael Huynh. I am detective Mclean with the Shakopee P.D. If you could please let Mr. Huynh know who I am. Do you mind if I put this right here Michael?

February 15, 2024
OFFICE OF
APPELLATE COURTS

[Interpreter speaks in Vietnamese..... for a while and stops]

[Michael keeps quiet.]

Police Officer: Did you understand that, Michael?

Interpreter: Hello?

Michael: Yeah.

Police Officer: (To Interpreter): Yes, he said he understood.

Police Officer: First of all, I guess I'll ask how you're doing Michael.

Interpreter:

Michael:(phonetic)

Police Officer: Okay now?

Interpreter: Okay.

Police Officer: I am the detective that you were supposed to meet yesterday morning.

Interpreter:

Michael:(silent)

Police Officer: Do you understand?

Michael: Yes.

Police officer: First and foremost, I want to tell you that you don't have to talk to me.

Interpreter:

Michael: (Silent)

Police Officer: Do you understand?

Michael: Yeah.

Police Officer: And typically, I would say- You're free to leave, but obviously you're in a hospital bed-So, if you don't want me here, you can tell me and I will leave- if you don't want me here.

Interpreter:

Michael: (silent)

Police Officer: Do you understand?

Michael: (speaks in Vietnamese with interpreter)

Police Officer: He understood?

Michael: (speaks in Vietnamese to interpreter)

Interpreter: You can tell me anything you want to say.

Police Officer: Okay. Well, I was gonna ask you questions. Are you okay with that or do you not want to speak with me?

Interpreter:

Michael: Yeah.

Officer: So, he wants to speak with me?

Interpreter: Yeah.

Officer: Well, I think you know why I am here. Uhm.... I talked with T, your girlfriend Kim, and T's mom already. Uhm.....I guess I just will like to hear.....Uhm.... well first.... What is your full name and date of birth?

Interpreter: (Interprets)

Michael: Michael....

Interpreter: Michael, 10/31/1970.

Officer: 10/21 or 10/31?

Interpreter: (interprets)

Michael: 31

Officer: And what's your address? - Where do you live?

Interpreter: (interprets)
Michael: 1560 Village.....eh.....Shakopee.
Officer: I can't put this.
Interpreter: Zip code?
Michael: 5579.
Officer: Okay. And, who do you.....how long have you lived there?
Michael: About 10 years.
Officer: At that address or
Michael: Yeah.
Officer: Who do you live with?
Interpreter:(vietnamese)
Michael: (vietnamese)
Interpreter: Michael says T and T's mom.
Police Officer: Okay. And what's your girlfriend's name?
Michael: Kim.
Interpreter: Kim.
Police Officer: Kim?
Police Officer: And T's mom's name?
Michael:(phonetic)
Police Officer: How long have you.....
Interpreter: Do you want me to say that?
Police officer: Oh yes, go ahead.
Interpreter: Do you want to spell the name?
Police officer: Eh, Eh. Sure.
Interpreter: Eh Okay. Nga, last nameHuynh.

Police Officer: Okay, (Uhm) how long has T lived with you?

Interpreter:(vietnamese)

Michael:(vietnamese)

Interpreter: For almost 3 yrs.

Police Officer: Uhm.....yes, at this point, eh I was just gonna ask uhm.. if you know why I am here to talk to you?

Michael: Yeah.

Police officer: You can explain why I am here.

Michael: I know.

Interpreter: (Interprets in Vietnamese).
(Long pause).

Police Officer: Did you understand or-----

Michael: Yes.

Police Officer: Do you want to explain or should I just ask questions?

Interpreter: (Interprets in Vietnamese).
(Long pause).

Michael: (speaks in Vietnamese).

Interpreter: Yeah.

Michael: (speaks in Vietnamese).

Interpreter: Okay, he said.....what T said is not right. It is not totally right. Because the first time.....him wanted herself with what she is doing.....

Police officer: Can you repeat that for me?

Interpreter: He said---uhmT, what T said is not totally right. The first time..... that's what T wanted and that's why he did it to me.

Police officer: Uhm.....could you ask him what that means? "First time T did what?" What did T do?

Interpreter: (Interprets in Vietnamese).

Michael: (Speaks in Vietnamese).

(Long Pause)

Police Officer: What did he say?

Interpreter: He said, "She pull it down and she

Officer: She or He?

Interpreter: He's talking about T.

Officer: T is a he, Yes is a he.

Interpreter: I am sorry. I didn't know because T pulled it down. T did it.

Officer: What did T pull down?

Interpreter: (Interprets in Vietnamese).

Michael: (speaks in Vietnamese).

Interpreter: The pants.

Police Officer: Pulled down who's pants?

Interpreter: T pulled down his pants and hold his penis.

Police officer: Hold Michael's?

Michael: Yeah.

Police officer: Yes?

Police officer: What did T do? (Stern voice).

Interpreter: (Speaks in Vietnamese).

(Long pause)

Police officer: If you can just remind him, he doesn't have any

Michael: (speaks Vietnamese).

Interpreter: So, T hold his penis.... Uhm Michael's penis.
Officer: So, did T ever put Michael's penis in his mouth?
Michael: Yeah.
Interpreter: Yeah.
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: Yes.
Police Officer: Can he explain what happened leading up to that?
Interpreter: (Speaks in Vietnamese).
Michael: (Replies in Vietnamese).
Interpreter: Okay- Nothing. We just go together and then
Police Officer: Go together where?
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: Like around the house and suddenly he wanted
Police Officer: So, T wanted to do that?
Michael: Yeah.
Interpreter: (Speaks in Vietnamese).
Michael: Yeah.
Interpreter: Yes.
Police Officer: Can you remind him again that if he doesn't want to speak to
me, he doesn't have to and that he can tell me to leave at any
time. Just make sure he knows that.
Interpreter: (Speaks in Vietnamese).
(Long pause).
Police officer: So, can you please ask him if he will still like to speak with me?

Michael: (Speaks in Vietnamese).

Interpreter: Yes, you can talk.

Police Officer: Okay.....uhm....I'll wait for....(To hospital staff- would you mind shutting the doors..... Uhm.....there was a lot of noise from staff in hallways).

.....(Long Pause).....

Police Officer: So they were hanging out in the house like.....could he go down?...Where did this happen in the house?

Michael: (Speaks in Vietnamese). (Inaudible).

Police officer (continues): Basement? Is it in T's bedroom?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: No. I'm sorry.

Police officer: Outside of his room?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Outside of his room.

Police Officer: Where-----living room, bathroom, hallway?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Uhm.....In the basement but outside of his room.

Police officer: So, in the hallway then?

Michael: In the hallway?

Michael: In the bedroom?

Police officer: In the bedroom?

Michael: Sorry, in the basement.....basement.

Police officer: In the basement hallway.

Michael: Basement.

Police officer: Okay.

Interpreter: (Speaks in Vietnamese).

Michael: Yeah.

Police officer: Where was T?

Interpreter: Yes.

Police officer: Was he in the room or couch?

Interpreter: (speaks in Vietnamese).

Michael: (speaks in Vietnamese).

Interpreter: He was just standing.

Police officer: He was just standing?

Police officer: Can I ask- Did this happen in uh..... like about what time of day?

Interpreter: (speaks in Vietnamese).

Michael: (speaks in Vietnamese).

Interpreter: In the evening. I don't know what time.

Police officer: Uh, do you know like when, what month or year?

Interpreter: (Speaks in Vietnamese)

(Long pause)

Interpreter: (speaks in Vietnamese)

Michael: (speaks in Vietnamese).

Interpreter: I can't remember. Maybe November. I can't really remember.

Police officer: Was it this last November?

Interpreter: (Speaks in Vietnamese)

Michael: Yes.

Interpreter: Yes.

Police officer: Is this the most recent November?

Interpreter: (Speaks in Vietnamese).

Michael: (Replies in Vietnamese).

Interpreter: I can't remember. It was last 2 Novembers 2020.

Police officer: Ask him- Is this the time T ran out of the house and went to the neighbors.

Interpreter: (speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: After he's like joking and teasing, and then he ran out to the neighbors' house.

Police officer: Uhm... what did he tell his girlfriend and T's mom that happened?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: I didn't say anything.

Michael: (Speaks in Vietnamese).

Interpreter: Uhm....it was like joking and then he asked me what I wrote down and he was so scared, so he ran away.

Police officer: Did he ever tell..... Uhm..did T's mom or aunt ever ask Michael what happened?

Interpreter: (Speaks in Vietnamese).

Michael: (Replies in Vietnamese).

Interpreter: They asked me, but I didn't say anything.

Police officer: And, you had said earlier, that this is the first time that...how many times did this happen?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).
Interpreter: Uhm..... It's just like joking. There's nothing happened.
Police officer: Uhm.....Did he ever stick his hands down the back of T's pants?
Interpreter: (Speaks in Vietnamese).
Michael: No.
Police Officer: No?
Interpreter: No.
Police officer: Did any..... Was..... did you touch T inappropriately any other time?
Michael: No. (Speaks in Vietnamese).
Police: He said no?
Interpreter: Other time. He said no. Other time they were just kissing each other, joking. He said that's the only time this happened.
Michael: (Speaks in Vietnamese).
Interpreter: The only time that that happened. Nothing else happened.
Police officer: He said that T wanted it. Can he explain what T said to him and why he went along with it?
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: Yeah, Yeah, okay. Uhm.....because the first time he touched it and then he said he liked it and at home, he usually pass clothes to me and he usually hangs out with me.
Police officer: Did he ask if? did T ask if he could pull his pants down?
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: He said he wanted.....

Police officer: And did Michael give him permission?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Yes.

Police officer: After he pulled down his pants, did he pull down his underwear?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Yes.

Michael: (Speaks in Vietnamese).

Interpreter: Yes. He just pulled down his zipper.

Police officer: Okay.

Interpreter: Not the whole thing.

Police Officer: And... Did T pick Michael's penis out of his pants, then?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Yes.

Police officer: Was T standing or on his knees?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: On his knees.

Police officer: Then T put his penis into his mouth? Put Michael's penis into his mouth?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Yes.

Police officer: Was your penis hard?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Yes.

Police officer: How long did that last approximately?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Uhm.....I don't remember how long but that he used his mouth.

Police Officer: Okay. Did he ejaculate?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: No

Police officer: And why did it stop? Who stopped it?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: I stopped it.
(Long pause)

Police officer: Did anything like that happen ever since?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: No.
(Long pause)

Police officer: Does he know how old T is? I'm asking how old is T?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: 15 years old.
Police officer: 16?
Interpreter: 15. Not more than 15.
Police officer: How old was he when this happened?
Interpreter: (Speaks in Vietnamese)
Michael: 50.
Police officer: 15?
Michael: 50.
Interpreter: 50. Five Zero.
Police officer: 15- One Five?
Michael: Five Zero.
Interpreter: No. Five Zero. Fifty.
Police officer: No. How old was T at the time this happened?
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: More than 15yrs old. He's older than 15.
Police officer: Yes, but at the time this happened, not now.
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: Older than 50. I don't know.
Police officer: Anything else he can tell me about what led up to this?
Interpreter: (Speaks in Vietnamese).
Michael: (Speaks in Vietnamese).
Interpreter: In the house we used to hang out together, uhm....we usually teasing each other and uhm....it happened and he touched me

and then I let it happen and I'm regretting it now, but it's too late.

Police officer: Uhm.... Is that why.... I'm asking I guess did he try hurting himself yesterday morning?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Uhm..... I tried to drive into traffic to abut then I don't remember exactly. I don't know which.... I crashed into.

Police officer: Okay. I guess I don't have any other questions for him. Does he have any questions for me?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: No.

Police officer: Well.... Thank you. I can....eh... Just let him know I'm gonna write a report and uhm... the county attorney's office will probably send him paperwork uhm.... in regards to any court stuff in the future and uhm....hope he doesn't hurt himself.

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Police officer: Actually, can you ask him one more question.....If this happened that long ago, why didn't it happen again?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: I don't want to. I didn't want to be with him again.

Police officer: Did T ever try to come onto him after that?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: No. But he did ask me to take him to school. But nothing happened.

Police officer: Can you tell me what T said again to him? Did T just come up to him and start touching him or did T say that he wanted to do something?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Uhm.....I don't remember. It's only what he said.....but it was like he was teasing me and he was touching me.

Police officer: Could you ask him what the teasing was? Like, what was being said?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: Uhm..... I don't remember the teasing. I don't remember what he said because we usually tease each other at home.

Police officer: Can you ask him.....was it sexual in nature?

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Interpreter: We just tease each other about..... not sexual stuff. For female and male. That's it.

Police officer: Okay... well...eh. Thank you and this concludes the interview then.

Interpreter: (Speaks in Vietnamese).

Michael: (Speaks in Vietnamese).

Police Officer: Thank you.

Interpreter: Thank you for using our services.

Police officer: Actually, one second. Can I get you a number again? What is that number?

Interpreter: It's 385-850

Police officer: And then what was your name again?

Interpreter: My name is Vas as in Voice Ach. Yes.

Police officer: Thank you so much.

Interpreter: Okay. Thank you. Bye.

Police officer: Bye.

Michael: Bye.

Police officer: I do hope that you feel better. I promise I don't want to see you get hurt. I felt so bad. Just so you're aware. I don't know if you understand me. I don't want anybody to get hurt.

Police officer: That was a statement with Michael Wen Huynh at HCMC at Surgical Intensive care unit. It is March 30, 2022. This is in regard to case No. 22005990.

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ICR: 22005990

Last Modified: 04-04-2022 1034

Title: Follow-up #2 - MM81

Created By: Michael McLain

SHAKOPEE POLICE DEPARTMENT

FOLLOW-UP REPORT

Detective McLain #81

3/30/2022

Audio Stmt: Y Photos: Y Squad Video: N - Sqd # N/A Body Camera: N

On 3/28/2022, I, Detective McLain, contacted Kim Huynh and asked if she and Michael would be willing to meet with me at the Shakopee Police Department on 3/29/2022. Kim stated she would be willing to meet with me and set a time of 0700 hours at the Shakopee Police Department. I met with Kim on 3/29/2022 at 0700 hours, along with Andrea Anderson, Scott County CPS. Michael did not show up to the interview. Kim informed me Michael had an appointment and she did not know he had it when she committed to having him come to the police department. The following is a synopsis of the recorded statement from Kim (Language line was used to interpret Vietnamese):

- I attempted to get through to the certified court interpreter line, but I was not able to. I used the regular language line
- She identified herself as Kim Hong Thi Huynh, DOB 11/14/1979
- She stated she lives at 1560 Village Square Blvd, Shakopee
- She stated Tan is her nephew and he lived with her (She said he used to live with her. Tan was placed in foster care last week)
- She stated her boyfriend and her nephew's mother live with her. The boyfriend was identified as Michael
- I asked if she knew why she was meeting with me. She replied that Tan's mom, Nga, had a meeting at the school and she knew she would need to speak with the police
- I asked if there had been any big issues between Tan and Michael
- She replied, "She asked if I wanted the entire story or just the incident"? I said the entire story, everything leading up to and the event
- She stated Tan came "here". Tan's stepdad sponsored him to this country
- When Tan came to the US, he lived with his stepdad for a short while. Tan eventually said his stepdad hit him and he moved in with Kim
- Kim told Nga and Tan they could come and live with her
- She stated when Tan went to school "it" became a problem. She used her phone number as contact information for Tan

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- She said Tan got into trouble for sharing sensitive pictures on social media
- She often reminds Tan to do his schoolwork and Tan gets angry
- Tan storms out and does not close the door. It has happened many times
- She said there was one incident where Michael caught Tan masturbating. She then describes in her culture they have a table dedicated to ancestors and Tan "jerked off" in front of that table
- Her boyfriend "Michael" caught sight of that, came upstairs and told her about it. She spoke with Tan and told him not to do that. He should do that in his room, not in front of that table
- She stated Tan did not follow that and he does what he pleases
- She said the school contacted her saying Tan shared a video during school time about a killing scene and it very gory
- She stated she believes Tan has some sort of mental issue. She spoke with Nga about it and suggested a psychologist. Nga did not do anything about it
- She said since she only had one nephew, when he came to this country she and Michael bought all his clothes, underwear and provided any needs he had
- They would leave Tan home alone in the morning, because she, Nga and Michael all go to work together before Tan has to leave for school
- She says Tan goes into her room and goes through her underwear drawer, takes out her bras. She is not sure what he did with them
- He left a lipstick on her bed. She brought it to him and asked about the lipstick. He denied it. She said she knew it was him and he denied it again and left room with an attitude
- She told him to stay out of her room. She has since put a lock on her door so, he can not go inside
- Michael has a room next to her room where he stores his clothes. Tan would go into the room. Some of the items in there are new. Tan would take clothes from Michael's room, they told him not to take them, but to ask first and they would let him use them. Tan would give her attitude
- She said one time, Tan took his pants off and put them in Michael's room. She said she knows it was Tan who did it. She tried to talk to him about it but he never listens
- Before "the incident" happened, Tan came to her to use her credit card. Michael said it might be a fraud so, she refused to let him use her credit card and he stormed out
- I asked for clarification on "the incident"
- She replied, it happened few days after he asked for the credit card
- Tan never eats with the family. She, Nga and Michael were having dinner together
- She asked Michael to run downstairs to the freezer to grab an item, so she could get ready to prepare

for tomorrow

- She said "we" were at the couch and she saw Tan run outside. He ran to the neighbor's house (Leong)
- She said she just found out recently the neighbors are also Vietnamese. She asked the young boy who lived there to help Tan with his school work
- She said when Michael ran downstairs to go and get something for her, Tan approached Michael and asked him when a man is having intercourse with another man, what is it like? She stated Michael replied, that's nonsense. Shouldn't the school teach you that? (Health education)
- She said that is when Tan ran out of the house and went to the neighbor's after Michael said that is nonsense
- I asked if what she told me about what happened downstairs prior to Tan running out of the house, if she saw it or if this is what Michael told her
- She said she did not see it. She then explained there were three levels in her house
- She said Nga and Tan were gone for a while at the neighbor's, so she went to see what was taking so long
- She asked Nga what was going on. She told Nga, this is someone else's house. Nga told her she did not know what was going on, but Tan refused to leave the neighbor's
- She told Nga she was going to go home and to lock the door when they come home
- She said she and Michael went to her room and later Nga and Tan came back home and called her downstairs
- She stated Tan then told her Michael touched him inappropriately
- She stated she did not believe him
- She said she did not believe him because the amount of time Michael was down there was not enough time to do that
- I asked how long Michael was down there. She replied, "She doesn't know an exact amount of time, but it was really quick she estimated five to six minutes"
- She then went on to say that Tan and Nga share the same room. Even though they have enough room for them to stay separate, they choose to stay in the same room
- I asked if Tan told her how Michael inappropriately touched him. Tan did not tell her what Michael did to him. He played a recording for her and she could not hear anything
- She then told Tan she was not happy with his actions and she does not want this to happen in her house. She also told him if you are telling the truth, you can go ahead and tell the school counselor about it. She does not want this to be happening between you (Tan) and Michael

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- She said why would you say such a thing like this? Tan's answer to her was, "I hate it and I wanted to say it just to piss you guys off"
- She said she was heartbroken when Tan said he just wanted to piss us off
- She said Nga was also saying to Tan why are you saying all this nonsense? Then she starts telling us what Nga had said in her interview about how Nga has caught Tan naked under a blanket playing with himself and watching porn
- I asked if Tan has ever made claims of Michael doing something like this before. She replied, "No sir"
- I asked when this occurred, she replied just before Christmas of 2020. She remembered putting up the Christmas trees and wrapping Christmas presents
- I asked if her or anyone else in the house kicked Tan out before. She replied, "No, never, she has been mad at times, but has never asked him to leave"
- She did state that she and Michael looked for another place for Nga and Tan to live, but they could not find anything they could afford
- She said Tan was being kicked out for using the side door to the garage. She said he uses that door sometimes, but he shuts it he just does not lock it
- She said Tan was already in the basement while she, Nga and Michael were eating. She stated Tan does not eat with them
- I asked if Michael and Tan were ever left alone together. She replied, "Tan has asked Michael for rides to school if he wakes up late for school"
- She says the only time Michael is alone with Tan, he would be driving him to school
- I asked for Michael's phone number. She told me about an e-mail she received from the school. She showed me the e-mail, which was a detention notice
- She eventually gave me Michael's phone number, 952-258-3499, which I checked in CLEAR later and it showed it was registered to Michael
- She went on to talk about when I spoke with Nga about what Tan had told me at the school. She said Nga spoke with Tan about it and she said Tan was a very disrespectful boy, raising his voice over Nga's. She said they were both yelling at each other
- She said that after Tan told her about Michael touching him inappropriately, she put cameras up around the house
- She said a few days ago, I believe on the 18th, or something just a few days ago, Tan left and when she came downstairs to lock the door, she noticed another door was left unlocked. She waited for him to come back and she told him she has told him many times to keep the door locked. Anyhow, he stormed off and that is when he brought up the incident at the school about Michael touching him inappropriately

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- I believe Kim tried saying in English that Michael was afraid now

This concluded the interview, I advised Kim I would need to speak with Michael and may need to speak with Tan again and then write reports and send them to the Scott County Attorney's Office. I advised her Michael does not need to speak with me, but I would like him to let me know he does not want to speak with me. Kim became very emotional at the end, crying. She again said Michael had an appointment today and offered to call Michael to make an appointment.

Please see the recorded statement, it has been uploaded to Winscribe.

After the interview was over, I was advised Michael had been involved in a car accident on Highway 169 near Marschall Road. It appeared he attempted suicide by wrapping a cord around his neck while he was driving. He is believed to have lost consciousness and then struck another vehicle. Michael was taken to St. Francis Regional Medical Center, where I learned he was later transferred to the Hennepin County Medical Center (HCMC). When I contacted HCMC, they informed me Michael was possibly being transferred to the Surgical Intensive Care Unit (SICU) and that he was intubated. This car accident was called into the police at approximately 0611 hours. Officers located a citation in Michael's car for driving the wrong way on a one way at 0422 hours that same day.

I was informed by Shakopee Officers that personnel first on scene observed Michael trying to choke himself with a cord. They stated it is believed Michael intentionally drove his vehicle in front of a semi.

I went to HCMC on 3/29/2022, where I was allowed to see Michael who was not awake at the time. The nursing staff stated he will survive and they let me see the ligature marks on Michael's neck. I took photos of the marks on his neck. They stated they were advised that Michael had been placed on a 72 hour mental health hold. They would be watching him one on one and he would be seen by a medical professional in regards to his mental health.

I will upload the photos to the case file.

On 3/30/2022, I contacted HCMC to see if Michael had been extubated, he had. I will attempt to go to HCMC and get a statement from him.

I have no further information at this time.

End of report. MM81

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STATE OF MINNESOTA
COUNTY OF SCOTT

DISTRICT COURT
FIRST JUDICIAL DISTRICT

State of Minnesota

Plaintiff

vs.

Michael Tien Huynh

Defendant

Court File No: 70-CR-22-14898
Case Type: Crim/Traf Mandatory

**OMNIBUS NOTICE OF MOTION
AND MOTION TO SUPPRESS**

TO: The Prosecuting Attorney in the above-entitled case.

PLEASE TAKE NOTICE, that pursuant to applicable Minnesota Rules of Criminal Procedure, the above-named defendant demands an Omnibus Hearing (Rule 11) in the above-entitled matter.

At the Omnibus Hearing herein the above-named defendant will move the court for an ORDER:

1. Suppressing the defendant's statement for violation of the Defendant's Fifth and Fourteenth Amendment rights. Specifically, the defendant was not given his Miranda warning prior to custodial interrogation. In addition the statement defendant made to the Scott County Police on March 29, 2022, was not freely and voluntarily given.
2. Suppressing the defendant's statement for violation of the Defendant's Fifth and Fourteenth Amendment rights. Specifically, the defendant was mentally incapacitated at the time of his interrogation by the Scott County Police on March 29, 2022 and thus the subsequent statement obtained was not made freely and voluntarily.
3. Suppressing the defendant's statement for violation of the Defendant's Fifth and Fourteenth Amendment rights in that the environment and circumstances surrounding the police interview of defendant on March 29, 2022, and the subsequent statement obtained from the defendant were so coercive, manipulative and totally overpowering that defendant was deprived of his ability to make an unconstrained and wholly autonomous decision to speak as he did.
4. Suppressing Defendant's statement for violation of Defendant's Fifth and Fourteenth Amendment rights in that defendant was medically unfit to provide a statement within the context of defendant's mental health condition, his state of mind, effect of medication,

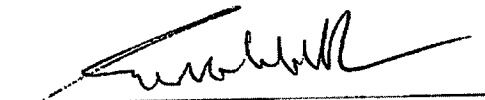
ADDENDUM 193

education, language barrier, language interpretation, psychosis and suicidal ideation as at March 29, 2022.

5. Dismissing Counts 1 through 6 of the Complaint as presently filed for lack of probable cause.

Said motion(s) will be based upon all the files, records, memoranda to be filed and proceedings herein and upon the grounds that defendant's legal and Constitutional rights have been violated.

Date: March 31, 2023



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ADDENDUM 194

VIETNAM 2022 HUMAN RIGHTS REPORT

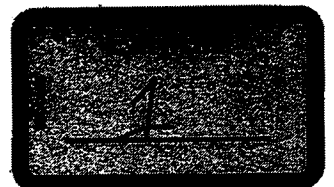
EXECUTIVE SUMMARY

The Socialist Republic of Vietnam is an authoritarian state ruled by a single party, the Communist Party of Vietnam, led by General Secretary Nguyen Phu Trong, President Nguyen Xuan Phuc, Prime Minister Pham Minh Chinh, and Chairman of the National Assembly Vuong Dinh Hue. National Assembly elections in May 2021 were neither free nor fair; there was limited competition among Communist Party-vetted candidates.

The Ministry of Public Security is responsible for internal security and controls the national police, a special national security investigative agency, and other internal security units. Civilian authorities maintained effective control over the security forces. There were credible reports that members of the security forces committed numerous abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings by the government; torture and cruel, inhuman, or degrading treatment and punishment by government agents; arbitrary arrest and detention; political prisoners; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including arbitrary arrest and prosecution of government critics, censorship, and the use of criminal libel laws; serious restrictions on internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association; restrictions on freedom of movement, including exit bans on activists; inability of citizens to change their government peacefully through free and fair elections; serious restrictions on political participation; serious government corruption; trafficking in persons; significant restrictions on workers' freedom of association; and use of compulsory child labor.

The government occasionally took corrective action, including prosecutions against officials who abused human rights or engaged in corruption, but police officers and state officials frequently acted with impunity.



Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports that the government or its agents committed arbitrary or unlawful killings. Media reported at least six deaths in custody, but authorities attributed these deaths to suicide or medical problems.

Unlike in previous years there were no reports that authorities harassed and intimidated families who questioned the police determination of cause of death.

On March 29, Nguyen Danh Thi died in police custody in Dong Hung District, Thai Binh Province, after being arrested on suspicion of transporting drugs illegally.

On July 1, Nguyen Ngoc Diep died in police custody in Nhon My Commune, Ke Sach District, Soc Trang Province, after being detained and questioned for 10 hours on suspicion of gambling. Diep's family said police ignored their warning about his gastrointestinal diseases. The autopsy showed bruises around Diep's lungs and heart.

On October 10, Nguyen Phuong Hong, an assistant at Van Thinh Phat Corporation, died two days after being arrested in connection with an investigation of the corporation's leaders. State media first reported the "sudden death" of Hong, but later removed all articles on Hong's death.

On October 18, Dao Ba Phi died after two days of detention at Dong Hoa Township, Phu Yen Province. Phi was arrested after allegedly stealing motorcycles. Police claimed Phi committed suicide.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or

Punishment, and Other Related Abuses

The constitution and law prohibit torture, violence, coercion, corporal punishment, or any form of treatment harming the body and health, or the honor and dignity of persons detained or incarcerated. Nevertheless, detainees commonly reported mistreatment and torture by police or plainclothes security officials during arrest, interrogation, and detention.

Activists reported Ministry of Public Security officials assaulted political prisoners to extract confessions or used other means to induce written confessions, including instructing fellow prisoners to assault them in exchange for promises of better treatment. Abusive treatment was not limited to activists or persons involved in politics. Human rights monitoring groups issued multiple reports of police using excessive force while on duty and investigators allegedly torturing detainees.

On January 14, Le Chi Thanh was sentenced to two years in prison for "resisting those on public duties." At the trial, he said that during pretrial detention police hung him upside down and subjected him to extended solitary confinement.

On May 14, at least four traffic police officers reportedly beat truck driver Le Huu Hieu when he refused to cooperate with police inspecting his identification documents and truck at the Hai Lang traffic police station in Quang Tri Province. Hieu's family told the media that they filed a complaint alleging a police officer injured him, including breaking a rib. On June 29, Quang Tri police announced that they investigated the incident and decided against initiating a criminal case.

Although impunity in the security forces was a significant problem, and police, prosecutors, and government oversight agencies seldom investigated specific reports of mistreatment, authorities did punish or prosecute some police officers for abuse of authority. On May 10, Cao Bang police dismissed lieutenant colonel Dang Dinh Doan and expelled him from the police force following reports widely shared online that he broke into a private property and slapped two individuals in late April. In a small number of cases in prior years, the government held police officials responsible for a death in custody, typically several years after the death. Despite guidance from the Supreme People's Court to charge police officers responsible for deaths in custody with murder, officers who were held responsible

typically faced lesser charges. Police conducted their own internal affairs investigations under the supervision of prosecutors to determine whether police were responsible for deaths in custody.

Since joining the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 2015, the government has made efforts to sensitize government officials on the prohibition against torture, including through workshops and publications.

Prison and Detention Center Conditions

Prison conditions varied substantially from province to province and by prison. Former convicts, family members, and lawyers report that most had austere conditions but were generally not life threatening.

Abusive Physical Conditions: Insufficient and unclean food, inadequate health care, overcrowding, lack of access to potable water, poor sanitation, and excessive heat during the summer remained serious problems. Despite the law mandating that pretrial detainees be held separately from convicted prisoners, media and activists reported there were cases in which detainees were held in the same cells with convicted prisoners.

Prison officials failed to prevent prisoner-on-prisoner violence. At Gia Trung Prison, officials reportedly encouraged violence between prisoners.

There were no reliable data on causes of deaths in prisons or overall death rates.

Some former and serving prisoners and their families reported prisoners received insufficient, poor-quality food. Family members continued to make credible claims that prisoners received extra food or other preferential treatment by bribing prison officials.

An Diem Prison in Quang Nam Province reportedly failed to provide enough food to accommodate Nguyen Bac Truyen's religiously mandated vegetarian diet. There were reports many prisoners, such as Le Huu Minh Tuan and Nguyen Tuong Thuy (see below), suffered from deteriorating health due to psychological abuse, poor diet, and denial of medical treatment. Many followers of spiritual leader

Duong Van Minh, who were detained in Tuyen Quang in December 2021, claimed they did not receive food and other supplies delivered by their families while in pretrial detention to supplement the inadequate and sometimes unsanitary food provided by authorities.

Authorities placed prisoners in solitary confinement for standard periods of three months, reportedly only after less rigorous punishments had been imposed.

Families of many political prisoners expressed concerns regarding poor detention conditions and health-care services for aged and weak prisoners. Authorities often delayed or denied requests for medical care outside the prison system. There were reports of inmates dying in custody or shortly after release due to the poor prison conditions and lack of access to adequate medical care.

Approximately 30 families of political prisoners called on the government to allow sick inmates to be hospitalized after two allegedly died from lack of timely care. The call came after the August 2 death of Do Cong Duong at a hospital in Thanh Chuong District, Nghe An Province, while in custody at Detention Center Number 6. Duong was an independent journalist jailed for "disturbing public order" and "abusing the rights to freedom and democracy." According to Duong's family, prison officials did not provide appropriate treatment for several medical conditions and only approved their request to take him to a hospital when his condition was severe and no longer treatable. Duong's death was the second among political prisoners at the detention facility since 2019.

Le Huu Minh Tuan's family reported his health deteriorated drastically during his two years of imprisonment, saying he suffered from hemorrhoids, deafness, scabies, hepatitis, and malnutrition.

Administration: There was no system by which prisoners could file uncensored complaints. The Ministry of Public Security reported that prisoners may file formal complaints with a prosecutor's office. These, however, must go through the same prison officials who were often the focus of the complaint.

The law allows prisoners' family members to visit for one to three hours per month and for prisoners to make up to four 10-minute telephone calls per month. Authorities, however, generally limited prisoners to one family visit of no longer

than an hour per month and at times offered fewer than four monthly telephone calls. According to family members, prison guards only allowed activist Huynh Thuc Vy to meet with her age three child once, citing COVID-19 restrictions. Officials monitored and censored calls, abruptly ending them if the conversations addressed disapproved topics, such as detention conditions.

While prisoners' families reported improved prisoner access to religious texts such as the Bible, some family members and lawyers reported authorities at times restricted or hindered access to such publications, although the law provides for it.

An Diem prison guards reportedly refused Bac Truyen's request for access to the original Hoa Hao sacred texts, instead providing him the edited version by the state-sponsored Hoa Hao Buddhist group.

Independent Monitoring: The Ministry of Public Security, the government entity that manages prisons, did not allow access to international monitors.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention. The law allows the government to arrest and detain persons "until the investigation finishes" for particularly serious crimes, including national security cases. Detainees or their representatives have no right to challenge the lawfulness of an arrest before a court.

Arrest Procedures and Treatment of Detainees

By law police generally require a warrant approved by a prosecutor to arrest a suspect, although in some cases a decision from a court is required. The law also allows police to hold an individual without a warrant in "urgent circumstances," such as when evidence existed a person was preparing to commit a crime or when police caught a person in the act of committing a crime. Human rights lawyers, however, claimed that detention without warrants was a common practice. There were numerous instances where activists were taken into custody without an arrest warrant.

In addition to actual arrest, lawyers and human rights nongovernmental

organizations (NGOs) reported that, in many cases, police officers “invited” individuals to present themselves at police stations without being given a clear reason. These individuals might be held for hours, questioned, or pressured to write or sign statements.

According to law, the investigating agency may hold a suspect for 72 hours without an arrest warrant. The investigating agency must issue an emergency custody order within 12 hours of the arrest. The investigating agency must then notify the prosecutors within 12 hours of issuing the emergency custody order. The prosecutor must approve or disapprove the arrest within 12 hours of receiving notice from the investigating agency. The investigating agency may extend custody twice, each time for three days, with the approval of the prosecutors. Especially in politically motivated cases, these procedures were not applied consistently or strictly.

Although the criminal procedure code sets time limits for detention while under investigation, the law allows the Procurator General of the Supreme People’s Procuracy (prosecutor) to decide on temporary detention of an individual “until the investigation finishes” in cases of particularly serious crimes, including national security cases.

While a suspect is detained during investigation, authorities may deny family visits; they routinely denied such visits to those arrested on national security charges or in other politically motivated cases.

The law allows for bail in the form of money or property as a measure to replace pretrial detention, but it was seldom granted.

The law requires authorities to inform persons held in custody or accused of or charged with a crime, of their legal rights, including the right to an attorney within three days of arrest. By law the government is required to assign a lawyer to a criminal defendant in cases in which the defendant is charged with offenses punishable by death, is a minor or person with physical disabilities, or is deemed mentally incompetent, or if the defendant (or their lawful representative) does not seek legal assistance.

Despite the law affording detainees access to counsel from the time of detention,

authorities used bureaucratic delays to deny timely access to legal counsel. In politically sensitive national security cases, the government routinely prohibited defense lawyers' access to their clients until after officials completed their investigations and formally charged the suspect. Activists such as Bui Tuan Lam were not allowed to meet their lawyers during their investigations. At times authorities only permitted attorneys access to their clients or the evidence against them immediately before the case went to trial, denying them adequate time to prepare a defense. Investigators reportedly coerced detainees to not hire certain lawyers or to accept lawyers assigned by authorities. There were also reports of authorities forcing lawyers not to defend activists or to refrain from providing substantive arguments and evidence in court in favor of activist clients.

Detainees have an undefined right to notify family members of their arrest. Although police generally informed families of detainees' whereabouts, the Ministry of Public Security often held incommunicado bloggers, activists, and others suspected of political or national security offenses, such as Nguyen Thai Hung and Vu Thi Kim Hoang.

Arbitrary Arrest: Arbitrary arrest and detention, particularly for political activists and individuals protesting land seizures or other matters deemed politically sensitive, remained a serious problem.

Authorities subjected activists and civil society organizers to varying degrees of arbitrary detention in their residences, in vehicles, at local police stations, at "social protection centers," or at local government offices.

Pretrial Detention: The maximum pretrial detention is nominally 21 months in cases of "especially serious offenses." Authorities, however, ignored requirements governing pretrial detention with impunity, and police and prosecutors used lengthy pretrial detention to punish or pressure human rights defenders to confess to crimes, activists said.

On August 30, political activist Le Anh Hung was sentenced to five years' imprisonment "for abusing democratic freedoms," after being held in pretrial detention for four years.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but the judiciary was effectively under the control of the Communist Party of Vietnam (CPV). There were credible reports of political influence, endemic corruption, bribery, and judicial inefficiency that significantly compromised the independence of the judicial system.

Most, if not all, judges were members of the CPV and were screened by it and local officials during their selection process to determine their suitability for the bench. The party's authority was particularly notable in high-profile cases and when authorities charged a person with corruption or challenging or harming the party or state. Defense lawyers routinely complained that, in many cases, it appeared judges determined the guilt of defendants prior to the trial.

Human rights lawyers reported that authorities also restricted, harassed, and threatened attorneys for representing political activists. The law required attorneys to violate attorney-client privilege in national security cases or other serious crimes by revealing the content of attorney-client discussions to investigators and in court.

Trial Procedures

While the constitution provides for the right to a fair and public trial, this right was not evenly enforced. Judges presiding over politically sensitive trials generally did not permit the defense to exercise their legal rights.

The law states that defendants are innocent until proven guilty. Defendants' right to prompt, detailed information concerning the charges against them was rarely respected. Defendants' right to a timely trial was ignored with impunity, and although trials generally were open to the public, judges closed trials or strictly limited attendance in sensitive cases. There were several cases, particularly of political activists, in which authorities denied requests for relatives or other observers to attend trials despite the trials being ostensibly open to the public.

The court sometimes denied suspects the right to their own choice of attorney and assigned one. Defendants' right to communicate with a lawyer when on trial for a criminal charge that could result in a 15-year or longer sentence, including capital cases, was often not respected.

Although the defense has the right to cross-examine witnesses, there were multiple instances in which the defense did not know which prosecution witnesses would be called and were not allowed to cross-examine those witnesses or otherwise challenge witness' statements. In many political trials, the defense was not allowed to examine or review prosecution evidence. A defendant has the right to present a defense, but the law does not expressly state the defendant has the right to call witnesses.

Defendants have the right to not be compelled to testify or confess guilt, but this right was not observed. The law requires video or audio recording of interrogations during the investigation, prosecution, and sentencing phases of cases. In multiple criminal trials, such videos were used by authorities to manipulate the court and public perception of the suspect and the case, according to human rights activists. During her December 2021 trial, prodemocracy author and journalist Pham Doan Trang claimed documentation of her confession was made under duress and therefore should not be admissible as evidence.

In most trials defense attorneys were given time to address the court and question their clients, but they could not call witnesses or examine prosecutors' evidence. In other trials involving individuals charged under national security articles, judges occasionally silenced defense lawyers who were making arguments on behalf of their clients.

Political Prisoners and Detainees

Based on reports by media, NGOs, and observers, authorities as of September 16 held at least 173 persons for political or human rights activism, including 143 convicts and 24 under pretrial detention. According to media and reports from human rights groups, from January 1 to September 16, authorities detained 19 and convicted 26 persons who were exercising internationally recognized human rights, such as the freedoms of expression, peaceful assembly, and association. Most of these arrests and convictions were linked to online blogging, and defendants were charged with "making, storing, spreading, or propagating information, materials, or items" for the purpose of "opposing" the state and "abusing democratic freedom."

NGOs said authorities at times subjected political detainees to examination and treatment of mental illness. In May the family of activist Nguyen Thuy Hanh said that authorities transferred Hanh, detained in April for allegedly founding and running a fund to support families of imprisoned activists, to a mental hospital.

According to family members of prisoners, prison officials often held political prisoners in small groups separate from the general inmate population and treated them differently. In many cases political prisoners' daily schedules were different from those of the general inmate population, and they were not afforded the opportunity to leave their cells for work or interaction with the general prison population. Some political prisoners enjoyed better material conditions than nonpolitical prisoners, but were subjected to more psychological harassment. In other cases, political prisoners were subject to harassment by prison authorities and other inmates, the latter sometimes at the instigation of officials. Officials in some cases subjected political prisoners to longer periods of solitary confinement than the three months given to other prisoners.

In some cases, rations appeared to be more limited for political prisoners than others. Former political prisoners reported they received only two small bowls of rice and vegetables daily, often mixed with foreign matter such as insects or stones. Some complained that the prisoners who were on a diet for medical reasons could not get enough suitable food. Family members of many imprisoned activists who were ill claimed medical treatment was inadequate and resulted in long-term health complications.

Political prisoners and their family members reported that prison authorities at times revoked, reduced, denied, or delayed visitation rights and did not allow visitors to provide items to family members. Family members of political prisoners reported authorities frequently limited them to two telephone calls per month, each normally five to seven minutes in length. Prison authorities often held political prisoners far from their homes, making family visits difficult, and routinely did not inform family members of prison transfers. Authorities often did not allow political prisoners in pretrial detention to meet their families and lawyers until the investigation finished, and in some cases political prisoners could not meet family members until after their appellate hearings. On August 31, Pham Doan Trang met her mother and brother for the first time since her 2020 arrest. In

November authorities permitted a visit by diplomats to the Nam Ha Prison in Ha Nam Province to meet with political prisoner Pham Chi Thanh.

Courts routinely handed down severe sentences to the most prominent activists or those linked to overseas groups. At least 19 individuals associated with the Provisional National Government of Vietnam, an overseas group that the Ministry of Public Security designated as a terrorist organization in 2018, were sentenced to five to 16 years in prison for "activities against the people's government."

Transnational Repression

Threats, Harassment, Surveillance, and Coercion: Unlike prior years there were no reports of authorities harassing exiled individuals or their families.

Bilateral Pressure: In prior years, human rights groups reported the government pressured Cambodia and Thailand to deny refugee or temporary asylum-seeker status to members of ethnic and religious minorities from the Central and Northwest Highlands, including Christian H'mong, and to return them to Vietnam. The government claimed these individuals were illegal migrants who left the country in pursuit of economic opportunities.

Civil Judicial Procedures and Remedies

The constitution provides that any person illegally arrested and detained, charged with a criminal offense, investigated, prosecuted, brought to trial, or subjected to judgment enforcement illegally has the right to compensation for material and mental damages and restoration of honor. Very few victims of government abuse, however, sought or successfully received redress or compensation through the court system. Courts hearing civil cases were as vulnerable to corruption and outside influence, lack of independence, and inexperience as those hearing criminal cases.

Property Seizure and Restitution

By law all land belongs to the government ("all the people of Vietnam"), which granted considerable decision-making authority for land pricing, allocation, and reclamation to local people's committees and people's councils, whose decisions

regarding land often lacked transparency and due process.

Disputes over land expropriations for development projects remained a significant source of public grievance. Many individuals whose land the government forcibly seized protested at government offices for unaddressed complaints.

The government prohibits class action lawsuits against government ministries, thus rendering ineffective joint complaints in land rights disputes.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary or unlawful interference with privacy, home, or correspondence, but the government did not consistently protect these rights and at times violated them.

By law security forces need warrants to enter homes forcibly, but Ministry of Public Security officers regularly entered or surveilled homes, particularly of activists, without legal authority. They often intimidated residents with threats of repercussions for failure to allow entry.

Without legal warrants authorities regularly opened and censored targeted private mail; confiscated packages and letters; and monitored telephone conversations, email, text messages, blogs, and fax transmissions. The government cut telephone lines and interrupted the cell phone and internet service of several political activists and their family members.

After returning from a trip on February 17, activist Bui Thi Minh Hang discovered her house in Vung Tau had been broken into and doors unlocked. Hang found nothing valuable was taken, causing her to suspect police searched her house while she was away.

The Ministry of Public Security maintained a system of household registration and block wardens to monitor unlawful activity. The ministry closely monitored individuals engaged in or suspected of engaging in unauthorized political activities.

Activists and their family members reported harassment by provincial authorities. On August 10, for example, Thanh Hoa Province security officials "invited"

Nguyen Thi Lanh, wife of imprisoned pastor Nguyen Trung Ton, to a local police station to question her about a visit to her imprisoned husband.

In May, Hoa Binh Province security officials summoned Trinh Ba Khiem, husband of imprisoned activist Can Thi Thue and father of imprisoned activists Trinh Ba Phuong and Trinh Ba Tu, several times for questioning about his Facebook posts relating to the imprisonment of his wife and sons. The husband reported that security officials threatened him with arrest.

The law limits satellite television access to senior officials, foreigners, luxury hotels, and some members of the press, but persons throughout the country accessed foreign programming via home satellite equipment or cable.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution and law provide for freedom of expression, including for members of the press and other media; however, the government did not respect these rights, and several laws specifically encroach on freedom of expression. The government also continued to use broad national security and antidefamation provisions in the law to restrict freedom of expression. Such provisions establish crimes such as “sabotaging the infrastructure of socialism,” “sowing divisions between religious and nonreligious people,” and “propagandizing against the state” as serious offenses against national security. The law also expressly forbids “taking advantage of democratic freedoms and rights to violate the interests of the state or lawful rights and interests of organizations or individuals.”

Freedom of Expression: The government continued to restrict speech that criticized individual government leaders or the party, promoted political pluralism or multiparty democracy, or questioned policies on sensitive matters, such as human rights, religious freedom, or sovereignty disputes with the People’s Republic of China.

Representatives from state-run organizations and progovernment groups visited activists’ residences and attempted to propagandize or intimidate them into

supporting government policies, according to social media and activists' reports. Family members of activists also reported numerous incidents of physical harassment, intimidation, and questioning by Ministry of Public Security officials.

On April 26, Lam Dong People's Court sentenced Dinh Van Hai to five years in prison and three years' probation for "spreading information, materials, items for the purpose of opposing the state," according to *Radio Free Asia*. In October 2021 the *People's Police* newspaper reported police arrested Hai for articles and videos that "criticized the socialist construction, distorted the past and denied revolutionary achievement" and "insulted Ho Chi Minh and discredited leadership of the Party and the state." According to *Radio Free Asia*, authorities did not notify Hai's family of his trial; they learned of it through a legal representative.

On June 9, the Ben Tre People's Court sentenced Nguyen Duy Linh to five years in prison and five years' probation for "spreading information, materials, items for the purpose of opposing the state." Local media reported his arrest in September 2021 and alleged that since 2017, Linh created social media content "with defaming content, slandering [the] people's government, caus(ing) public confusion and offending Party and state leadership comrades." Media reported that Linh was critical of the government's COVID-19 policies and police questioned and fined him for his social media posts prior to his arrest.

Violence and Harassment: Independent journalists faced restrictions on freedom of movement, other forms of harassment, and physical attacks if they reported on sensitive topics. The government also monitored journalists' meetings and communications. The government punished journalists for failing to self-censor, including by revoking journalists' press credentials.

On April 5, the Ho Chi Minh City People's Court sentenced journalist Nguyen Hoai Nam to three years and six months in prison for "abusing democratic freedoms." Earlier Nam exposed a corruption scandal at the Vietnam Inland Waterways Agency. This led to a criminal investigation, which concluded that 14 individuals, including government officials, had committed bribery totaling over five billion dong (\$201,000) between 2015 and 2016; however, no indictments, arrests, or other legal action followed. Nam criticized the investigation until his arrest in April 2021.

Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media: The CPV, government, and party-controlled mass media organizations exercised legal authority over all print, broadcast, online, and electronic media, primarily through the Ministry of Information and Communications under the overall guidance of the CPV Publicity and Education Commission. This includes requiring media outlets to be affiliated with a government body. The law requires editors-in-chief to be CPV members.

The government may fine journalists and newspapers for failing to cite their sources of information or for using "documents and materials from organizations and personal letters and materials from individuals, without clearly stating the sources of such information." The law allows the government to punish publishers if they publish false information or content the government deems objectionable.

Authorities frequently intervened directly with media to dictate or censor a story, and only permitted media outlets to report on predetermined topics; the Ministry of Information and Communication fined outlets that reported unapproved political and socioeconomic news. Pervasive self-censorship, including among independent journalists and bloggers, due to the threat of dismissal and possible arrest, assisted the party and government to control media content.

Media independent of government authority operated on a limited basis online, primarily via blogs and social media, but independent journalists faced government harassment.

Journalists employed by foreign-based media outlets operated under significant restrictions. For example foreign journalists required formal permission to travel outside Hanoi, and "live" foreign television programming must run on a 30- to 60-minute delay to enable content monitoring.

On July 7, the Ministry of Information and Communications imposed a 325 million dong (\$13,100) fine on the *Vietnam Law Newspaper* and suspended the license for its online news site for three months after the press authority deemed it had published "false information" and "sensational" and "deductive and unfounded" content that showed a "lack of professionalism."

Libel/Slander Laws: Defamation is a criminal offense, and the laws were

enforced, especially against critics of the Communist Party and government.

On January 17, the People's Court in Dak Lak sentenced Pham Dinh Quy, a lecturer at Ton Duc Thang University, to 33 months in prison for "slandering" the former secretary of the Dak Lak Party Committee, Bui Van Cuong. In 2019 Quy filed a complaint accusing Cuong of plagiarizing major portions of his doctoral thesis. Authorities held Quy under "urgent arrest" since 2020. The Dak Lak court also sentenced former police officer Hoang Minh Tuan to 30 months in prison. Tuan received and signed Quy's complaints before sending them to Party and government agencies, including the Central Inspection Committee, which concluded that the complaints were unfounded.

National Security: The law provides for significant fines against journalists, newspapers, and online media that publish or broadcast information deemed harmful to national interests or for disseminating information considered to distort history and the revolution's achievements. In some cases, these "violations" may lead to criminal proceedings. No such cases were reported in the year to October, but editors noted that publications and journalists must be careful of national security laws, contributing to self-censorship.

Citing laws protecting national security, police arrested and ordered journalists to restrict criticism of government policies or officials in prior years.

Internet Freedom

The law allows the government to restrict and disrupt access to the internet, censor online content, impose criminal sentences for online expression, and routinely monitor private online communications. The limited number of licensed internet service providers were fully or substantially state-controlled companies. The government monitored Facebook and other social media and punished those who used the internet to organize protests or publish content critical of the government.

On January 5, Dong Nai police arrested blogger Nguyen Thai Hung and his wife Vu Thi Kim Hoang for "abusing democratic freedoms." Hung operated the "Speak by Truth TV" YouTube channel that often shared content critical of the government and had nearly 40,000 followers. Police arrested Hung while he was live streaming on YouTube.

In September several prominent social media critics of the state were fined or arrested in a three-day period. On September 6, Thai Binh police fined game streamer Nguyen Thi Thanh Loan 10 million dong (\$422) after she made a comment while live streaming that was construed as insulting the president. Loan was fined for spreading inaccurate information and slandering and defaming individuals. On September 7, Danang City police arrested Bui Tuan Lam for "spreading information against the state." Lam in November 2021 posted a video of himself on social media imitating the Turkish chef, Salt Bae, who appeared in a separate video handfeeding a gold-coated steak to Minister of Public Security To Lam in London. On September 8, Dak Lak Province police arrested Dang Dang Phuoc for "spreading information against the State," according to state media. The *Ho Chi Minh City Law Newspaper* alleged that since 2019, Phuoc had posted slanderous articles and videos against the government. Phuoc was a vocal critic of the government with a large following on social media.

The government sometimes blocked websites it deemed politically or culturally inappropriate, including sites operated by overseas Vietnamese political groups in addition to the websites of *Radio Free Asia*, *Voice of America*, and the *BBC* Vietnamese news service. State-owned internet service providers routinely blocked domestic Vietnamese-language websites that contained content criticizing the CPV or promoted political reform.

An administrative regulation compels owners of all websites and social networking sites to cooperate with the Ministry of Information and Communications to prevent the spread of "bad, toxic news."

Another rule requires all companies and organizations operating websites providing content on "politics, economics, culture, and society" or operating social networks, including blogging platforms, to register with the government. Such companies and organizations must locate at least one server in the country to facilitate government requests for information and must store posted information for 90 days and certain metadata for up to two years.

The government forbids direct access to the internet through foreign internet service providers and requires internet service providers to provide technical assistance and workspace to public security agents to allow them to monitor

internet activities. The Ministry of Public Security required "internet cafes," including cybercafes, to register the personal information of their customers, store records of internet sites visited by customers, and participate in government investigations of online activity. Internet cafes continued to use government-approved software to monitor customers' online activities. The Ministry of Public Security enforced these and other requirements and monitored the internet selectively.

The government pressured firms such as Facebook and Google to eliminate "fake accounts" and content deemed "toxic," including "antistate" materials. The Ministry of Information and Communications pressured social media platforms to comply with political-speech takedown requests, especially for posts critical of senior CPV officials.

Authorities also suppressed online political expression by direct action against bloggers, such as arrests, short-term detentions, surveillance, intimidation, and the illegal confiscation of computers and cell phones from activists and their family members. The government continued to use national security and other vague provisions of the penal code against activists who peacefully expressed their political views online. Political dissidents and bloggers reported the Ministry of Public Security periodically ordered the disconnection of their home internet service.

Users of state-sponsored social networks and blogs were required to provide their full name, national identification number, and address before creating an account. In-country website and social network operators must allow authorities to inspect local servers upon request and must have a mechanism to remove prohibited content within three hours of detection or notification by authorities.

Restrictions on Academic Freedom and Cultural Events

The government restricted academic freedom and cultural events. Foreign academic professionals temporarily working at universities in the country could generally discuss nonpolitical topics widely and freely in classes, but government observers regularly attended classes taught by both foreigners and nationals. The government continued to require international and domestic organizations to obtain

advance approval for conferences involving international sponsorship or participation. Police sometimes attended these events as uninvited observers. The government allowed universities more autonomy over international exchanges and cooperation programs, but provincial and central authorities occasionally refused university requests to host foreign scholars and exchange participants. Visa requirements for visiting scholars and students remained onerous and fees and conditions were applied inconsistently.

Viewers reported interruption of coverage of various commentaries, documentaries, and movies on human rights incidents in the country, the Vietnam War, the Cold War, the Soviet era, or reports involving trade tensions. For example, in November viewers reported a cable network stopped international news coverage of COVID-related protests in China, citing problems with the satellite signal.

The Ministry of Information and Communications may revoke the licenses of foreign publishers; foreign publishers must renew their licenses annually.

The government continued to prohibit any public criticism of the CPV and state policy, including by independent scientific and technical organizations, even when the criticism was presented to a purely academic audience.

State-run media reported private entities produced more than 90 percent of all publications in the country, although outright private ownership or operation of any media outlet or publishing house was prohibited. Many nongovernmental entities, however, produced and distributed publications by subcontracting, joint publishing, or buying permits from government or other public publishing entities.

The government exerted influence over art exhibits, music, and other cultural activities by requiring numerous authorizations.

On July 16, authorities disrupted a workshop on Ukrainian culture held at the Southeast and North Asia Institute of Technology and Development Research (SENA) in Hanoi with the participation of many academics and Ukrainian diplomats. Police prevented some participants from leaving home to attend the workshop and cut off the institute's power during it.

On July 27, the Ministry of Public Security charged Nguyen Son Lo, former president of SENA, with "abusing democratic freedom." Lo had written several books and articles calling for CPV and government reforms and circulated his writings among CPV members. In January 2021 a Bach Thong District, Bac Kan Province government's website stated that his writings instilled "reactionary thoughts into the minds of government officials, party members and the public."

On August 17, the Ho Chi Minh City Department for Culture and Sports fined artist Bui Quang Vien 25 million dong (\$1,050) for organizing a painting exhibition without a permit and demanded he destroy all the exhibited paintings. After a public backlash against the government's actions, authorities rescinded the requirement that the artist destroy his paintings.

b. Freedoms of Peaceful Assembly and Association

The government restricted the freedoms of peaceful assembly and association.

Freedom of Peaceful Assembly

Although permitted by the constitution, the government restricted freedom of peaceful assembly. Laws and regulations require permits for group gatherings, which local authorities issued or denied without explanation. Only those arranging publicized gatherings to discuss matters the government considered "sensitive" appeared to require permits. The government generally did not permit any demonstrations that could be perceived as political. The law permits security forces to detain individuals gathering or protesting outside of courthouses during trials. Persons routinely gathered in informal groups without government interference so long as the gathering was not perceived as political or a threat to the state. For example the government permitted small groups of individuals to protest land rights concerns for short periods in Hanoi and Ho Chi Minh City.

In prior years police and plainclothes authorities routinely mistreated, harassed, and assaulted activists and those demonstrating against the government. No major demonstrations against the government were permitted during the year.

Freedom of Association

The constitution affords individuals the right of association, but the government severely restricted the establishment of associations involved in what the government considered “sensitive” fields such as politics, religion, and labor rights. The country’s legal and regulatory framework includes mechanisms particularly aimed at restricting the freedom of NGOs, including religious organizations, to organize and act. The government generally prohibited the establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the CPV’s Vietnam Fatherland Front (VFF).

Laws and regulations governing NGOs restrict their ability to engage in policy advocacy or conduct research outside of state-sanctioned topics and prohibit organizations focused on social science and technology from operating in fields such as economic policy, public policy, political matters, and a range of other areas considered sensitive. Authorities also did not permit NGOs generally to publicly advocate specific policy positions.

According to some recognized groups and others attempting to register, implementation of the law varied from province to province. They reported that the process was burdensome, lengthy, and that authorities often did not respond to their applications.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government regularly imposed limits on the movement of individuals, especially those released after serving sentences under national security or related charges or outspoken critics of the government.

In-Country Movement: Government restrictions required citizens and resident

foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of "national strategic storage," and "works of extreme importance for political, economic, cultural, and social purposes."

Citizens (or their hosts) must register with local police when staying overnight in any location outside their own homes. Foreign passport holders must also register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends or family.

Authorities did not strictly enforce residency laws for the general population, and migration from rural areas to cities continued unabated. Moving without permission, however, hampered persons from accessing public education, health care, and other government services.

Authorities restricted the movements of several political activists on probation or under house arrest, along with others not facing such legal restrictions. Authorities also continued to monitor and selectively restrict the movement of prominent activists and religious leaders. Authorities continued to prevent activists from leaving their houses during events that might draw public attention.

Several activists, such as Nguyen Tien Trung, Pham Thanh Nghien, and Bui Thi Minh Hang, reported plainclothes police prevented them from leaving their houses, especially during holidays or visits by senior foreign diplomats.

Foreign Travel: Prospective emigrants occasionally encountered difficulties obtaining a passport or exit permission, and authorities regularly confiscated passports of activists and government critics, at times indefinitely. The law allows authorities to postpone the departure of any person on various broad grounds, including for national security and defense. There were multiple reports of individuals crossing the land borders with Laos or Cambodia illegally because they were unable to obtain passports or exit permission; in some cases this included persons wanted for crimes and political or other disapproved activities.

The Ministry of Public Security continued to use foreign travel prohibitions against certain activists and religious leaders. Authorities banned and prevented dozens of individuals from traveling overseas, withheld their passports on vague charges, or

refused to issue passports to certain activists or religious leaders without clear explanation. Activists believed they were not authorized to travel abroad to reduce their opportunities to speak out against the government. Authorities also refused to issue passports to the family members of certain activists.

On April 9, customs officers at Ho Chi Minh City's Tan Son Nhat airport prevented Pastor A Dao from leaving for an international religious freedom conference and told him that he had a travel ban. Upon his return to Kon Tum Province, A Dao was detained and interrogated for two days. After his release, plainclothes police continued monitoring and harassing him.

Many ethnic minority Christians in the Central Highlands reported local authorities denied their passport applications.

e. Protection of Refugees

The government generally did not cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other organizations regarding treatment of refugees, returning refugees, or asylum seekers, as well as other persons of concern.

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

f. Status and Treatment of Internally Displaced Persons

Not applicable.

g. Stateless Persons

According to 2021 statistics from UNHCR, there were 35,475 recognized stateless persons and persons of undetermined nationality in the country. This was a substantial increase from the estimated 11,000 stateless persons acknowledged in 2016, reflecting increased government efforts to identify such persons. The bulk of this population were ethnic H'mong living in border areas, but it also included women who lost their Vietnamese citizenship after marrying a foreign national but

then lost their foreign citizenship due to divorce.

Section 3. Freedom to Participate in the Political Process

Citizens could not choose their government through free and fair elections based on universal and equal suffrage and conducted by a secret ballot that guaranteed free expression and the will of the people. Although the constitution provides the ability to elect representatives to the National Assembly, people's councils, and other state agencies directly, constitutional and legal provisions established a monopoly on political power for the CPV, and the CPV oversaw all elections.

Elections and Political Participation

Recent Elections: The most recent National Assembly elections held in May 2021 allowed limited competition among CPV-vetted candidates but were neither free nor fair, and the government did not allow NGO monitoring. The CPV's VFF chose and vetted all candidates through an opaque, multistage process. CPV candidates won 485 of the 499 seats. The remaining 14 were non-CPV candidates unaffiliated with any party; nine of the 14 were self-nominated. There were no candidates from a party other than the CPV.

According to the government, 99 percent of eligible voters cast ballots in the May 2021 election, a figure activists and international observers considered improbably high. Voters may cast ballots by proxy, and officials charged local authorities with ensuring that all eligible voters cast ballots by organizing group voting and verifying that all voters within their jurisdiction had voted.

The law allows citizens to "self-nominate" as National Assembly candidates and submit applications for the VFF election-vetting process. A total of 74 non-CPV, self-nominated candidates received VFF approval and ran in the May 2021 National Assembly elections, down from 97 in the 2016 election. The independent candidates consisted of legal reformers, journalists, academics, activists, and human rights defenders, and included the country's first openly lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) candidate, who ran unsuccessfully in Hanoi. In contrast to the party's candidates, these candidates actively used Facebook and social media to advertise their policy platforms.

On February 17, a court in Ninh Binh upheld the 6.5-year prison sentence against Tran Quoc Khanh for “conducting antistate propaganda” in a brief appellate hearing without lawyer. Khanh previously announced through social media his intention to run for a seat in the National Assembly as an independent candidate. Before this arrest local police questioned Khanh on multiple occasions regarding his blogging, his announced candidacy for the National Assembly, and his application to a prodemocracy civil society organization called Democracy Association.

On April 19, a court in Hanoi upheld the sentence of five years’ imprisonment and five years’ probation against self-nominated National Assembly candidate Le Trong Hung for “conducting antistate propaganda.” At the time of his arrest, Hung had submitted preliminary paperwork to run in the May elections but had not yet been formally screened by the VFF. Hung was a long-time human rights advocate who focused his civil rights advocacy on social injustice by distributing copies of the country’s constitution. He was also critical of many incumbent legislators and other state and party leaders on his Facebook page.

Political Parties and Political Participation: Political opposition movements and other political parties are illegal. Although the constitution states that “all Party organizations and members of the CPV operate within the framework of the constitution and the laws,” the CPV politburo in fact functioned as the supreme national decision-making body, although technically it reported to the CPV Central Committee.

On September 8, Phan Son Tung, a YouTuber with hundreds of thousands of subscribers, was arrested and charged with “spreading information against the state.” He was in the process of launching a new political party at the time of his arrest.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of historically marginalized groups in the political process, and they did participate. The law sets a target of 35 percent of final candidates for the National Assembly and provincial people’s councils to be women and 18 percent to be from minority groups. The 151 women in the National Assembly comprised 30 percent of the body; the 89 ethnic minority

delegates comprised 18 percent of the assembly.

Section 4. Corruption and Lack of Transparency in Government

Although the law provides criminal penalties for corruption by officials and there were multiple arrests and convictions for corruption, the government did not implement the law effectively, and officials frequently engaged in corrupt practices. This included existing and retired officials from the politburo, central party, military, and public security services.

Corruption: The lack of public consultation on land-use plans and government land compensation frameworks was a driver of corrupt land transfers. Corruption in financial, banking, natural resource mining, and public investment sectors was a significant political and social problem.

On April 14, police arrested Deputy Minister of Foreign Affairs To Anh Dung for allegedly soliciting bribes from Vietnamese nationals abroad seeking to be repatriated during the COVID-19 pandemic.

On June 7, the Ministry of Public Security arrested Minister of Health Nguyen Thanh Long and Hanoi People's Committee Chairperson Chu Ngoc Anh for mismanagement and involvement in a scheme to sell COVID-19 test kits at inflated prices.

On August 22 during its midyear review, the Central Steering Committee for Anti-Corruption reported that nearly 295 Communist Party members were disciplined during the first six months of the year for corruption and deliberate mismanagement. A separate anticorruption report prepared by the government for the National Assembly's Standing Committee in September stated that 74 officials were found in violation of regulations on asset and income declaration during the year.

On August 30, the People's Court in Hanoi sentenced former party secretary of Binh Duong Province, Tran Van Nam, to seven years in prison. Nam was found guilty of "violating regulations on the management and use of state assets" for allowing private investors to take over state-owned land in 2012.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

The government did not permit independent, local human rights organizations to form or operate, nor did it tolerate attempts by organizations or individuals to criticize its human rights practices publicly. Authorities often asserted that human rights and democracy advocacy were acts against the Communist Party and state.

Retribution against Human Rights Defenders: In January four individuals who ran registered NGOs (Nguy Thi Khanh, Dang Dinh Bach, Mai Phan Loi, and Bach Hung Duong) were convicted of tax evasion. Human rights organizations believed that these charges were tied to the individuals' social or environmental activism.

On May 20, the People's Court of Cu Kuin District, Dak Lak Province sentenced Y Wo Nie, a member of the Ede ethnic group, to four years in prison for "abusing democratic freedoms." State media reported he attended online courses on religious freedom, domestic civic laws, international covenants, and reporting human rights abuses. The indictment stated that in 2020 Y Wo Nie reported "falsified" human rights violations to "reactionary overseas subjects" through messaging applications and met with diplomats. Those actions "affected political security, social order and safety," "undermined public confidence in the regime," and "hurt the images of the state and the credibility of the party in diplomatic relations."

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law prohibits using or threatening gender-based violence, including rape, spousal rape, "other sexual contacts," and "forced sex crimes." It also criminalizes the rape of men. Conviction for rape is punishable by imprisonment of up to 15 years, depending on the severity of the case.

Authorities treated domestic violence cases as civil cases unless the survivor

suffered injuries to more than 11 percent of the body. The law specifies acts constituting domestic violence and stipulates punishments for convicted perpetrators ranging from warnings to imprisonment for up to three years.

The government did not enforce laws on rape and domestic violence effectively.

Domestic violence was common. The Women's Union reported in 2019 (latest data available) that at least 58 percent of married women worried about domestic violence and that 87 percent did not seek help. Officials acknowledged domestic violence was a significant social concern, and media discussed it openly. Social stigma prevented many survivors from coming forward due to fear of harassment from their spouses or family.

While police and the legal system generally remained unequipped to deal with cases of domestic violence, the government, with the help of international and domestic NGOs, continued to train police, lawyers, community advocates, and judicial officials in the law; supported workshops and seminars that aimed to educate women and men regarding domestic violence and women's rights; and highlighted the problem through public-awareness campaigns.

Sexual Harassment: The law specifically prohibits sexual harassment only in the workplace; the government did not enforce the law effectively. The Labor Code that came into effect in January 2021 allows workers to terminate a labor contract immediately without prior notice if the worker is sexually harassed in the workplace. The new Labor Code also requires employers to include sexual harassment in their "labor regulations." Perpetrators of sexual harassment outside of the workplace may be fined. A decree provides for administrative penalties for sexual harassment in public.

In serious cases survivors may sue offenders under a law that deals with "humiliating other persons" and specifies punishments for conviction that include a warning, noncustodial reform for up to two years, or a prison term ranging from three months to two years.

Reproductive Rights: Coercive population policies restricted reproductive rights. The constitution stipulates that society, families, and all citizens implement "the population and family planning program." By law couples or individuals are

limited to giving birth to one or two children, with exceptions based on government decree. Regulatory penalties apply to CPV members and public-sector officials.

The CPV, certain ministries, and some localities issued their own regulations, applicable only to party members and government officials, regarding family size. A politburo decree subjects party members to reprimand if they have three children, removes them from a ranking position if they have four, and expels them from the CPV if they have five. Violating the decree also decreases the likelihood of promotion and may lead to job termination. The CPV did not enforce these provisions consistently.

Access to sexual and reproductive health services was provided to all persons, including survivors of sexual violence, and included emergency contraception as part of the clinical management of rape.

According to the United Nations Population Fund (UNFPA), although the country made substantial progress in improving the sexual and reproductive health status of the population, disparities existed. The maternal mortality rate declined from 233 per 100,000 live births in the 1990s to 46 per 100,000 live births in 2019, but the rate was two to three times higher among ethnic minorities. UNFPA assessed that the higher rate of maternal deaths among ethnic minority women was due to poor quality health-care access for both family planning and maternal health services, geographic isolation, limited education on reproductive health, and socioeconomic factors that limit the utilization of sexual and reproductive health services in ethnic minority localities.

Young persons were particularly vulnerable, with unmet need for modern contraceptives at 29.6 percent, and the adolescent birth rate at 11 per 1,000. According to UNFPA, they lacked adequate and comprehensive information and services about contraception.

Discrimination: The law provides for gender equality, but women continued to face societal discrimination. Despite the large body of law and regulation devoted to protecting women's rights in marriage and the workplace as well as provisions that call for equitable treatment, women did not always receive equal treatment in

employment (see section 7.d.), education, or housing, particularly in rural areas.

Although the law provides for equal inheritance rights for men and women, a son was more likely to inherit property than a daughter, unless otherwise specified by a legal document such as a will, according to observers.

Gender-biased Sex Selection: According to 2019 data (the latest available) from the Ministry of Health, the average male to female sex ratio at birth was 111.5 boys to 100 girls, far greater than the natural norm of 104-106 boys to 100 girls. To address the topic of gender-biased sex selection, the government prohibits gender identification prior to birth and prohibits gender-based violence and discrimination. Abuses of these provisions were subject to fines or imprisonment. At the local or provincial level, some authorities awarded cash incentives for giving birth to girls.

Systemic Racial or Ethnic Violence and Discrimination

The law prohibits violence and discrimination against ethnic minorities, but societal discrimination was longstanding and persistent. The government did not enforce the law effectively.

Ethnic minority group members constituted a sizable percentage of the population in certain areas, including the northwest, the Central Highlands, and portions of the Mekong Delta. The constitution recognizes the rights of members of ethnic minorities to use their languages and protect and nurture their traditions and cultures. There were reports, however, that not all members of ethnic minorities were able to engage in decisions affecting their lands, cultures, and traditions.

International human rights organizations and refugees continued to allege that authorities monitored, harassed, and intimidated members of certain ethnic minority groups, particularly ethnoreligious minorities in the Central and Northwest Highlands, including Christian H'mong.

Authorities used national security laws to impose lengthy prison sentences on members of ethnic minorities for their connections to overseas organizations the government claimed espoused separatist aims.

According to community organizers, on February 4, police in Soc Trang

summoned Duong Khai, a member of the Khmer Krom ethnic group, and interrogated and abused him for two days. This was done after Khai distributed a United Nations publication on ethnic minority rights and participated in several online classes on domestic and international law on ethnic minority rights hosted by the Khmer Krom Foundation, an international NGO.

Although the government previously allocated land to ethnic minorities in the Central Highlands, land expropriation in these areas was common. Preferential government treatment for domestic and foreign companies that invested in highland areas populated predominantly by ethnic minorities as well as government-supported infrastructure and agricultural development programs in those areas tended to benefit nonindigenous residents.

Children

Birth Registration: By law the government considers anyone born to a citizen parent to be a citizen. Persons born to noncitizen parents may also acquire citizenship in certain circumstances.

Children born to stateless parents or to a stateless mother and unknown father may acquire citizenship only if the parents or mother are permanent residents, making the process difficult in most cases.

The law requires a birth certificate to access public services, such as education and health care. Nonetheless, some parents, especially from ethnic minorities, chose not to register their children. Local authorities, moreover, prevented some parents from registering children to discourage internal migration, according to observers.

Education: By law education is free, compulsory, and universal through age 14, but school fees were common. Under a government subsidy program, ethnic-minority students were exempt from paying school fees. Authorities did not always enforce required attendance laws or enforce them equally for boys and girls, especially in rural areas, where government and family budgets for education were limited and children's labor in agriculture was valuable.

A gender gap in education remained. For example, there were substantial differences in the education profile of men and women at the postsecondary level,

with men predominating, notably in applied technology programs.

The government sometimes denied education to children from families not registered in their locality, especially with H'mong communities in the Central Highlands, and on the children of some political and religious activists.

Child Abuse: The government did not effectively enforce existing laws on child abuse, and physical and emotional abuse were common.

Observers concurred that violence against children occurred in many settings including schools and homes and was usually inflicted by someone known to the child. The most common types of school violence were bullying and corporal punishment by teachers. The number of reported cases of child abuse, especially child sexual abuse, was increasing. The National Hotline for Child Protection reported large increases (150 percent) in calls involving violence and abuse against children between May and August compared with the first three months of the year.

UNICEF stated in 2019 there were no effective interdisciplinary child- and gender-sensitive procedures or processes for handling child-abuse reports and that the responsibilities of government agencies were unclear. The child protection workforce, from social workers to relevant professionals such as police, judges, prosecutors, teachers, and medical experts, was poorly trained, uninformed, and generally insufficient to address the problem, especially at local levels.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18 for girls and 20 for boys, and the law criminalizes organizing or entering an underage marriage.

Sexual Exploitation of Children: The law criminalizes the sale, deprivation of liberty, and all acts related to the commercial sexual exploitation of children younger than 16. The commercial sexual exploitation of children ages 16 and 17 is not fully criminalized. The law also prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development.

Punishment for sexual exploitation crimes ranges from three years' to life

imprisonment and may include significant fines. The law specifies prison sentences for conviction for acts related to the exploitation of children in commercial sex, including harboring commercial sex or commercial sexual exploitation of minors (12 to 20 years' imprisonment), brokering commercial sex (seven to 15 years'), and paying for sex with minors (three to 15 years'). The production, distribution, dissemination, or sale of child pornography is illegal, and a conviction carries a sentence of three to 10 years' imprisonment; the government did not effectively enforce the law. The country is a destination for child sex tourism.

The minimum age for consensual sex is 18. Conviction for statutory rape may result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18 vary from five to 10 years in prison, depending upon the circumstances. The penalty for rape of a child between the ages of 13 and 16 is seven to 15 years' imprisonment. If the survivor becomes pregnant, the rape is incestuous, or the offender is in a guardianship position to the survivor, the penalty increases to 12 to 20 years' imprisonment. The law considers all cases of sexual intercourse with children younger than 13 to be child rape, with sentences ranging from 12 years' imprisonment to death. The government enforced the law and convicted child rapists received harsh sentences.

Antisemitism

There were small communities of Jewish foreigners in Hanoi and Ho Chi Minh City. There were no reports of antisemitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuse Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No law criminalizes consensual same-sex sexual conduct between adults.

Violence against LGBTQI+ Persons: There were no reports of the government inciting, perpetrating, condoning, or tolerating violence against LGBTQI+ persons.

Discrimination: The law does not prohibit discrimination against LGBTQI+ persons in housing, employment, nationality laws, or access to most government services. According to LGBTQI+ activists and NGOs, inaccurate information regarding sexual orientation and gender identity remained pervasive and there was widespread social stigma and discrimination associated with being LGBTQI+, including in schools where LGBTQI+ students often experienced bullying.

Availability of Legal Gender Recognition: The civil code gives individuals who have undergone gender-affirming surgery the right to register their new status, although regulations to implement this were pending as of December.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: The belief that same-sex attraction is a diagnosable and curable mental health condition was common, and some lesbians reported “corrective” rape and forced marriages. In August the Ministry of Health issued an official dispatch to the medical system (provincial health departments and medical institutions nationwide) instructing that LGBTQI+ identities are not a disease to be cured, prohibiting involuntary treatments, stating that mental health services could only be provided by experts on sexual orientation and gender identity, and stipulating the ministry’s policy opposing “conversion therapy.” The ministry also stated that education should be strengthened so that all medical providers have correct knowledge concerning LGBTQI+ persons, and that they must be treated equally in medical environments. According to LGBTQI+ activists and NGOs, medically unnecessary “gender normalization” surgeries were performed on intersex children.

Restrictions on Freedom of Expression, Association, or Peaceful Assembly: The country’s broad limits on freedom of expression, association, or peaceful assembly also applied to LGBTQI+ groups and topics, although there were no reports of them being targeted like other advocacy groups.

Persons with Disabilities

Although the law protects the rights of persons with disabilities to access

education, employment, health services, information, communications, buildings, transport, the judicial system, and other state services, most persons with disabilities were not able to access education, health services, public buildings, and transportation on an equal basis with others. For example while the law requires new construction or major renovations of government and large public buildings to include access for persons with disabilities, enforcement was sporadic, particularly outside major cities.

Persons with disabilities faced widespread social stigmatization.

Access to education for children with disabilities, particularly deaf children and those with intellectual disabilities, remained limited. More than 90 percent of elementary and secondary schools did not have appropriate infrastructure for persons with disabilities. The education system also lacked sufficient trained teaching professionals for persons with disabilities. According to a 2018 study, the literacy rate of persons with disabilities 16 years and older was 76 percent, compared to a 95 percent literacy rate for persons without disabilities of the same age group. According to data from UNICEF and Vietnam's *National Survey on People with Disabilities 2016-2017*, the school attendance rate for children with disabilities was 82 percent at the primary level, 68 percent at the lower secondary level, and 34 percent at the upper secondary level.

There is no legal restriction on the right of persons with disabilities to vote, but many polling stations were inaccessible to persons with physical disabilities.

NGOs reported they continued to face challenges applying for funding and offering training for disability-related programs from certain provincial governments, which hampered access for international experts to conduct training.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers who are citizens to form and join unions under the Vietnam General Confederation of Labor (VGCL), a CPV-run organization. The VGCL, however, answered directly to the VFF, which did not protect trade unions from government interference in or control over union

activity. The labor code allows workers to form or join an independent employee representative organization of their choosing (workers' representative organization) that does not have to be affiliated with the VGCL. The labor code defines "employment relationship" such that a legally valid relationship exists when two parties agree to a document that includes a description of the job, salary, management, and supervision conditions. This may include a contract with an "independent contractor," "service provider," "freelancer," or other informal agreement with employment-like terms. The labor code also limits the repeated use of limited-term contracts. The law extends protection to part-time and domestic workers.

The law limits freedom of association by not allowing trade unions full autonomy in administering their affairs. All unions must follow the organizational and operational guidelines prescribed by the CPV and law. The law confers on the VGCL ownership of all trade-union property and gives it the right to represent lower-level unions. By law trade union leaders and officials are appointed rather than elected by union members. Implementing decrees needed to operationalize the labor code's section on workers' representative organizations were not yet in force as of November.

The law requires that if a workplace trade union does not exist, the next level "trade union" organization must perform the tasks of a grassroots union, even where workers have not so requested or have voluntarily elected not to organize. The labor code includes provisions for collective bargaining on any matter of concern to both parties to regulate working conditions and relationships between the parties and to develop progressive, harmonious, and stable labor relations. The law requires bargaining to commence within seven days of a party's request and provides 90 days to reach an agreement.

Collective bargaining is allowed at the enterprise, multi-enterprise, and sectoral levels but has additional requirements, such as establishment of a collective bargaining council by the people's committee of the province where the headquarters of the enterprise is located. Under the labor code, parties involved in multi-enterprise collective bargaining may request such a collective bargaining council, which comprises representatives nominated by each party as well as representatives from the provincial people's committee; the council disbands after

a collective bargaining agreement is signed.

The law prohibits strikes by workers in businesses the government considers essential to the national economy, defense, or public order. "Essential services" include electricity production; post and telecommunications; maritime and air transportation; navigation; public works; and oil and gas production. The law also grants the chairmen of provincial people's committees the right to suspend a strike considered detrimental to the national economy or public safety. Workers must also provide five days' prior notification to the employer and the provincial and district level people's committee labor agents before a strike. Strikes that do not adhere to the process outlined by law are illegal.

The law states the executive committee of a trade union may issue a decision to strike only when at least 50 percent of workers support it. Workers must request and exhaust an extensive and cumbersome process of mediation and arbitration before a lawful strike may occur. Unions or workers' representatives may either appeal decisions of provincial arbitration councils to provincial people's courts or strike. The law stipulates strikers may not be paid wages while they are not at work. The law prohibits retribution against legal strikers. By law individuals participating in strikes declared illegal by a people's court and found to have caused damage to their employer are liable for damages, although this has never been enforced. The law limits legal strikes to cases that arise from a collective labor dispute, and cases in which collective bargaining is not undertaken within the legal timeframes, or when a labor arbitration board has not been established.

The law includes provisions that prohibit antiunion discrimination and imposes administrative sanctions and fines for violations. The law does not distinguish between workers and managers, however, and fails to prohibit employers' agents, such as managers, from participating as union leadership or interfering in union activity. The International Labor Organization (ILO)-International Finance Corporation (IFC) Better Work project, which monitors workers' rights and working conditions in some apparel and footwear factories, reported that management participation in trade union activities was a significant concern.

The government did not effectively enforce applicable laws providing for freedom of association and collective bargaining. Penalties were not commensurate with

similar laws.

There were strikes, particularly during the period around the Lunar New Year celebration. Strikes did not follow the authorized conciliation and arbitration process and thus authorities considered them illegal "wildcat" strikes. The government, however, took no action against the strikers.

There were no registered domestic NGOs involved in labor organizing. Local, unregistered labor NGOs, however, supported efforts to raise awareness of worker rights and occupational safety and health (OSH) matters and to support Vietnamese and foreign migrant workers. Multiple international labor NGOs collaborated with the VGCL to train VGCL-affiliated union representatives in labor organizing, collective bargaining, and other trade union matters.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor. The labor code's definition of forced labor, however, does not explicitly include debt bondage. The law criminalizes all forms of labor trafficking. The government does not effectively enforce the law. The law does not provide any penalty for violating provisions prohibiting forced labor. NGOs continued to report the occurrence of forced labor of men, women, and children (see also section 7.c.).

Labor recruitment firms, most affiliated with state-owned enterprises, and unlicensed brokers reportedly charged workers seeking overseas employment higher fees than the law allows. In 2021 the Ministry of Labor inspected 16 enterprises sending workers abroad and fined 12 for administrative violations. Despite these actions and ministry awareness-raising workshops, problems continued and workers seeking overseas employment incurred high debts and were thus more vulnerable to forced labor, including debt bondage, in the receiving countries. In addition there continued to be reports indicating forced labor in the informal apparel industry.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law does not prohibit all the worst forms of child labor. Deficiencies include the lack of a law proscribing slavery. The new labor code states a worker older than 14 and younger than 18 shall not perform work that might damage the physical or intellectual development and dignity of the minor, such as lifting heavy objects or dealing with alcohol or dangerous chemicals or gases. A minor worker aged 13 to 14 may perform light jobs included in a list from the Ministry of Labor, War Invalids, and Social Affairs. Children younger than age 13 may work in art and sports in certain circumstances for no more than 20 hours per week. Minor workers must have the permission of their parents.

Illegal child labor was reported in labor-intensive sectors, such as construction, garments and textiles, bricks, fish, furniture, footwear, and leather goods, agriculture, and some other manufacturing. Local media also reported children working as beggars in gangs whose leaders abused the children and took most of their income. Some children started work as young as age five, and nearly 49 percent of child workers did not attend school.

In the informal garment sector, children as young as age six reportedly worked in conditions of forced labor. The most recently available information from government raids, NGOs, and media reports indicated this was most common in small, privately owned informal garment factories and workshops.

The Ministry of Labor is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal violations, prosecute employers who violate child labor laws.

The government did not effectively enforce the law, and penalties were not commensurate with those for analogous serious crimes. Penalties were sometimes applied against violators.

Also see the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, race, disability, color, social class, marital status, belief, religion, HIV status, and membership in a trade union or participation in trade union activities. The law does not prohibit discrimination based on political opinion, age, language, national origin, sexual orientation, or gender identity. Companies with a workforce composed of at least 51 percent employees with disabilities may qualify for special government-subsidized loans. No laws prohibit employers from asking about family or marital status during job interviews.

The labor code includes a definition of sexual harassment and assigns employer responsibility for its prevention. Employers must implement regulations against sexual harassment in the workplace and include it as possible grounds for dismissal.

Discriminatory hiring practices existed, including discrimination related to gender, age, disability, and marital status (see section 6). Under the labor code, the retirement age for most employees is 60 years and three months for men, and 55 years and four months for women; the labor code improved but did not eliminate this disparity, as it would gradually increase the retirement ages to 62 for men and 60 for women. The labor code includes a chapter on gender equality, which provides paternity leave for male workers and job security for women workers who take maternity leave.

Enterprises led by women had limited access to credit and international markets. Female workers earned, per year, an average of one month's income less than male workers. Many women older than 35 found it difficult to find a job, and there were reports of women, such as factory workers in garments and electronics, receiving termination letters at the age of 35. Legal restrictions exist against women in certain occupations and tasks considered to be harmful for their reproductive health, including jobs deemed "hazardous" in industries such as mining, construction, and transportation.

Social barriers and the limited accessibility of many workplaces remained problems in the employment of persons with disabilities.

Penalties for discrimination were less than those under laws related to civil rights. The government did not effectively enforce the laws. Penalties were rarely applied against violators.

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum wage varies by region. In all regions the minimum wage exceeds the World Bank official poverty income level.

The law provides for a 48-hour regular workweek, with overtime pay for additional hours. The labor code limits overtime to 40 hours per month, and 200 hours per year, but provides for an exception in special cases, with a maximum of 300 overtime hours annually, subject to advance approval by the government after consultations with the VGCL and employer representatives.

Credible reports, including the ILO-IFC *Better Work 2020 Annual Report*, indicated many apparel and footwear factories exceeded legal overtime thresholds. The ILO-IFC report stated that, while a majority of factories in the program complied with the daily limit of four hours overtime, 76 percent still failed to enforce monthly limits (40 hours).

Occupational Safety and Health: The law provides for OSH standards, describes procedures for persons who are victims of labor accidents and occupational diseases, and delineates the responsibilities of organizations and individuals regarding OSH. The law provides for the right of workers to remove themselves from situations that endanger health or safety without jeopardy to their employment. Migrant workers, including internal economic migrants, and workers without contracts were among the most vulnerable workers, and employers routinely subjected them to hazardous working conditions.

On-the-job injuries due to poor OSH practices and conditions and inadequate employee training remained a problem. In 2021 the government reported 6,504 occupational accidents and 786 fatalities, fewer than in 2020. These figures likely understated the problem, due to the lack of inspection. Migrant workers and workers without contracts remained most vulnerable to occupational injuries and fatalities.

Wage, Hour, and OSH Enforcement: The Ministry of Labor, War Invalids, and Social Affairs is the principal labor authority. The Labor Inspections Department is responsible for workplace inspections to confirm compliance with labor laws, including OSH standards.

Inspectors have the authority to make unannounced inspections and initiate sanctions. Inspectors may use sanctions, fines, withdrawal of operating licenses or registrations, closures of enterprises, and mandatory training in response to labor law violations. Inspectors may take immediate measures where they have reason to believe there is imminent danger to the health or safety of workers, and can temporarily suspend operations, although such measures were rarely used.

The government did not effectively enforce labor laws, particularly in the informal economy. The number of inspectors was not sufficient to enforce compliance. Labor inspectors accounted for fewer than one third of the labor inspectorate's staff, and of these, only a small number were OSH specialists. Most worksites went uninspected for years at a time. Penalties for wage, hour and occupational safety and health violations were commensurate with those for similar crimes, such as fraud, but penalties were rarely applied against violators.

Informal Sector: The informal sector includes small household businesses; individual vendors in traditional markets, street side, or online; and gig workers for transportation and delivery. Fifty-five percent of the country's workforce worked in the informal economy.

Members of ethnic minority groups often worked in the informal economy and, according to the ILO, informal workers typically had low and irregular incomes, endured long working hours, and lacked protection by labor market institutions. Additionally, workers in the informal sector were only eligible to pay into a voluntary social insurance fund covering only retirement and survivors' allowances. Workers in the formal sector and their employers contributed to a system that covers sickness, maternity, labor accidents, and occupational disease as well as retirement and survivors' allowances.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

70-CR-22-14898

FIRST JUDICIAL DISTRICT

Filed in District Court
State of Minnesota
1/19/2024 10:32 AM

File No. 70-CR-22-14898

State of Minnesota,

Plaintiff,

vs.

ORDER

Michael Tien Huynh,

Defendant.

The above-entitled matter came before the Honorable Caroline H. Lennon,
Judge of District Court, on October 6, 2023 & November 17, 2023, at the Scott County

Government Center, Shakopee, Minnesota.

Steven J. Kelm, Assistant Scott County Attorney, appeared as counsel for and on behalf
of the State of Minnesota.

Eric B. C. Anunobi, Attorney at Law, appeared as counsel for and on behalf of the
Defendant.

Based upon the proceedings, this Court makes the following:

FINDINGS OF FACT

1. At the hearing on October 6, 2023, the State called Detective Michael McLain ("Det. McLain") to testify about his interview with the Defendant on March 30, 2022.
 - a. On March 21, 2022, Det. McLain of the Shakopee Police Department was notified about an alleged sexual assault occurring between Defendant and a victim who resided at the same residence as Defendant.
 - b. On March 29, 2022, Defendant was involved in a vehicular crash and taken by

ADDENDUM 238

emergency services to St. Francis Hospital and eventually Hennepin County

Medical Center ("HCMC") where he was unconscious for a short period of time.

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- c. Defendant was subjected to a hospital 72-hour hold for concerns about self-harm and suicidal behavior.
- d. On March 30, 2022, Det. McLain appeared at HCMC, having confirmed Defendant was conscious and able to communicate.
- e. Det. McLain testified that on the day of the interview, Defendant was awake when he entered the hospital room. There was another person in the room watching Defendant due to concerns of self-harm. That individual was not law enforcement nor was he there at Det. McLain's behest.
- f. The Defendant showed a passable understanding of the English language; however, a Vietnamese interpreter via phone was used to facilitate the interview.
- g. Det. McLain testified that he began his interview by introducing himself to the Defendant. He further stated that he understood Defendant was under a medical hold and that Defendant could "just tell me to leave and I would go." *Transcript 10/06/2023* at 11.
- h. Det. McLain was dressed in plain clothes wearing his badge at his waist. He was not wearing a bodycam but recorded the interview on a handheld recording device.
- i. Det. McLain testified that he was carrying his sidearm at his waist during the interview but was not wearing a full duty belt or similar peace officer gear. Det. McLain never took his sidearm out of its holster during the interview.
- j. Det. McLain did not read a Miranda Warning to Defendant because he "wasn't in

custody” and was not there on March 30, 2022, to take Defendant into custody.

Id. at 12-3.

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- k. Det. McLain testified that hospital staff entered in and out of the room during the interview, at one point bringing food in for the Defendant.
 - l. Det. McLain testified that he never threatened the Defendant with arrest and reminded the Defendant that he did not have to speak with him three times during the interview.
 - m. Det. McLain stated that he observed Defendant having no difficulty comprehending his questions and responding appropriately to the questioning.
 - n. The entire interview lasted around 40-45 minutes.
2. At the hearing on October 6, 2023, the Defense called Dr. Randy K. Ward (“Ward”) to testify.
 - a. Ward testified that Defendant was diagnosed with a mood disorder unspecified. Ward indicated that paperwork for the civil commitment process had been commenced.
 - b. Upon cross-examination, Ward also testified that Defendant was not experiencing psychosis when he spoke with Defendant, and that he, at times, had refused to speak with the healthcare team stating, “He [Defendant] was dismissive of our team in a sense. . .” *Id.* at 61.
3. At the hearing on October 6, 2023, the Defense called Dr. Ian J. Heath (“Heath”) to testify.
 - a. Heath testified that Defendant exhibited symptoms consistent with a diagnosis of major depression with psychotic features.

- b. Upon cross-examination, Heath further testified that the Defendant exhibited a reduction in normal thought processes, consistent with depressive episodes, but the Defendant could understand and comprehend what was happening around him.

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4. At the hearing on November 17, 2023, the Defendant testified on his own behalf.
- a. Defendant testified that due to his upbringing in a totalitarian country and witnessing atrocities committed by police officers in the same, he developed a fear and apprehension for police officers.
 - b. Defendant testified that the highest education he received was approximately at a ninth-grade level.
 - c. Defendant testified that he had no interactions with police officers in the United States until the interview with Det. McLain.
 - d. Defendant testified that he "...felt afraid and worried" when Det. McLain entered the room. *Transcript 11/17/2023* at 28.
 - e. Defendant stated that he did not understand his constitutional rights and that he did not voluntarily waive them.
 - f. Upon cross-examination, Defendant could not recall any details about the person sitting in the hospital room watching over him.
 - g. Upon cross-examination, Defendant stated that Det. McLain did not make any threats against his person nor promised Defendant anything.
 - h. The Defendant claimed he was dizzy and tired during the interview with Det. McLain.

CONCLUSIONS OF LAW

Custodial Interrogation

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1. The Fifth Amendment to the United States Constitution requires police officers to provide a suspect with the warnings from *Miranda v. Arizona*, 384 U.S. 436 (1966), before conducting a custodial interrogation. See *Dickerson v. United States*, 530 U.S. 428, 434–35 (2000). A “custodial interrogation” occurs when “questioning [is] initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his [or her] freedom of action in any significant way.” *Miranda*, 384 U.S. at 444. “An interrogation is custodial if, based on all the surrounding circumstances, a reasonable person under the circumstances would believe that he or she was in police custody of the degree associated with formal arrest.” *State v. Vue*, 797 N.W.2d 5, 10–11 (Minn. 2011). In considering whether an interrogation is custodial, courts consider the totality of the circumstances. *Id.* at 11.
2. Defendant argues that Det. McLain’s interview at HCMC on March 30, 2022, amounts to a custodial interrogation and thus any statements elicited in said interview are inadmissible in court. This argument fails to be persuasive when considering the totality of the circumstances.

First, Defendant claims that he was deprived of his freedom in a significant way. He argues that being immobilized in a hospital bed with tubes and machines hooked up to him and an individual who was watching over him created a hostile environment that only got worse when Det. McLain appeared. Defendant alludes that his situation is similar to the scenario found in *State v. Sickles*, 275 N.W.2d 809 (Minn. 1979). In *Sickles*, the defendant was taken to a detox center at Naeve Hospital in Albert Lea, Minnesota, where

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he was read his *Miranda* rights and confessed to the allegations before him. The court found that the detox center environment and the police apprehension of the defendant was enough for a custodial environment to exist and require a *Miranda* warning. This is dissimilar to the situation in the present case. Defendant was taken to the hospital as a result of injuries sustained in a car accident and suicidal ideation, not brought there by police. Defendant was in a non-hostile environment, a hospital room, (*See State v. Smith*, No. A05-1651, 2-3 (Minn. Ct. App. 2006)), with individuals watching over him because of a risk of suicide not to arrest him. Det. McLain appeared without uniform, only a badge and gun (which stayed holstered through the entire interview) physically denoting his police affiliation. Det. McLain spoke in sympathetic and measured tones, offering Defendant ample opportunity to deny speaking with him. Individuals came into the hospital room during the interview to deliver the Defendant food and the door stayed open for part of the interview as well. Defendant did not present any evidence of coercion or threat by Det. McLain that would create a custodial interrogation and require a *Miranda* warning or render Defendant's statements inadmissible. Moreover, we know from testimony of the doctors that Defendant employed the strategy of not talking at all to medical staff when he chose not to.

The Court finds, under the totality of the circumstances, Defendant's argument that he was subjected to a custodial interrogation and deprived of his freedom in a significant way, unpersuasive.

Voluntariness

1. When the State uses coercive tactics such that a defendant's "will is overborne" and is not "the product of a rational intellect and free will," an incriminating statement is inadmissible

FILED

under the Due Process Clause. *Reck v. Pate*, 367 U.S. 433, 440 (1961); see also *State v. Mills*, 562 N.W.2d 276, 283 (Minn. 1997). Coercive police activity is a necessary predicate

February 15, 2024

Filed in District Court
State of Minnesota
1/10/2024 10:32 AM

**OFFICE OF
APPEALS**

to a finding that a statement was involuntary. *Colorado v. Connelly*, 479 U.S. 157, 167 (1986). If, after a *Miranda* warning, a defendant waives his rights to silence and to counsel, the State must show by preponderance of the evidence that the statement was voluntary and not coerced. *State v. Camacho*, 561 N.W.2d 160, 170 (Minn. 1997). Once again, the court examines several factors under a totality of the circumstances framework to determine whether Defendant's statements were made voluntarily or were the result of coercive police action.

2. In the second prong of the Defendant's argument, he claims that his statements were not voluntarily due to his upbringing in Vietnam, witnessing police atrocities in Vietnam, his education, and the hold upon his person, among other factors. The Court finds this argument to be weakened by Defendant's own willingness and actions during the interview with Det. McLain and his testimony at a hearing on November 17, 2023.

Defendant claims that his upbringing in Vietnam and his witnessing of police practices in Vietnam shaped his view of police officers so significantly that he was overwhelmed and intimidated by the mere presence of Det. McLain. Relevant testimony offers a different perspective. Det. McLain testified that he told Defendant multiple times throughout the interview that Defendant could decline to speak with him or could tell him to leave. Det. McLain further testified about the efforts to provide Defendant with an interpreter to ensure an accurate recording of Defendant's statements. Det. McLain was not hostile, did not wear his official uniform, and spoke with a measured and sympathetic tone. These are not the actions of a malicious actor overwhelming the will of the Defendant

rendering the statements involuntary. See *State v. Riley*, 568 N.W.2d 518, 525 (Minn. 1997); and, *State v. Mills*, 562 N.W.2d 276, 283 (Minn. 1997). Furthermore, the Defendant's upbringing in Vietnam holds relatively little weight in these proceedings considering Defendant has been in the United States for approximately twenty years, owns a business, a home, and is able to drive. This indicates that Defendant is well acclimated to the customs of the United States and is able to live here with relative ease.

Defendant next points to his education limiting his ability to understand his constitutional rights. This factor is offset by Defendant's own comprehension of Det. McLain during the interview and willingness to engage with the detective. Once again, Det. McLain told Defendant he did not have to speak with him and could tell the detective to leave if he so wished. Defendant did not take the option to do so and willingly spoke with the detective. Defendant claims his limited education is a heavy factor in finding his statements involuntary, but this Court disagrees. Defendant displayed understanding both during the interview and on the witness stand. Defendant answered questions competently, demonstrating no erroneous statements, delusions, or non-linear thinking. A police officer is not obligated to assess the intellectual capacity of every defendant he comes across. Defendant is a functional adult, living ably in society; and, for these reasons, this Court finds Defendant's limited education not sufficient enough to find his statements were made involuntarily.

Lastly, Defendant argues that because he was under a 72-hour hold, his statements to Det. McLain were not the product of rational intellect and free will. This is simply not true. The 72-hour hold was in response to the car accident and the subsequent risk of suicidal harm, both of which bear little relevance to Det. McLain's interview and the

allegations against Defendant. Defendant further alluded to his mind being addled by sedative medicine, stating many times that he was dizzy and tired during the interview. However, Det. McLain testified that Defendant was alert and awake during their conversation. Defendant would begin answering questions before Det. McLain finished asking the question showing a very capable understanding of the conversation and not the result of fatigued mind. In addition, Dr. Ward testified that Defendant was dismissive of his team, demonstrating that Defendant had the capability to refuse to speak with individuals.

In conclusion, this Court is not persuaded that Defendant's will was overborne and his statements were not the product of a rational mind and free will. Defendant was able to answer his own attorney's questions with little difficulty but displayed a curious lack of memory when cross examined by the State's attorney. Defendant displayed a sufficient understanding of what was happening around him and of the conversation he had with Det. McLain, rendering his statements wholly and freely voluntary.

ORDER

1. Defendant's Motion to Suppress is hereby **DENIED**.

Dated: January 19, 2024

BY THE COURT:



Lennon, Carrie
2024.01.19
09:46:58 -06'00'

Caroline H. Lennon
Judge of District Court

Imaging (continued)

8 - Unknown

HCMC RADIOLOGY Unknown

Unknown

03/12/06 1431 - Present

Letters

Letter by Bloss, Gray Charles on 4/3/2022

Status: Open

Letter body:

STATE OF MINNESOTA

FIRST JUDICIAL DISTRICT

DISTRICT COURT

COUNTY OF SCOTT

PROBATE/MENTAL HEALTH DIVISION

In the Matter of the Civil Commitment of:

**PETITION FOR JUDICIAL
COMMITMENT**

Michael T Huynh
DOB: 10/31/1970,

D.C. File No.
C.A. File No.

Respondent.

Gray Bloss, LGSW, at Hennepin County Medical Center, is interested in the respondent as a Social Worker, and to the best of his/her knowledge, information, and belief, petitioner respectfully represents:

1. Respondent was born on 10/31/1970;
2. Respondent lives at 1560 Village Square Blvd
Shakopee MN 55379, and has residence in Scott County, Minnesota for the purpose of judicial commitment;

3. Respondent's spouse and nearest kindred are:

NAME	RELATIONSHIP	ADDRESS
Kim Huynh	Spouse	952-258-3238

4. The observations of respondent's behavior showing that respondent is Mentally Ill, and that there is no suitable alternative to involuntary commitment are set forth in Exhibit A and the Examiner's Statement attached.

5. ☒ An Examiner's Statement supporting respondent's commitment is attached.
☐ Petitioner is unable to procure an examiner's statement as described in Exhibit A.

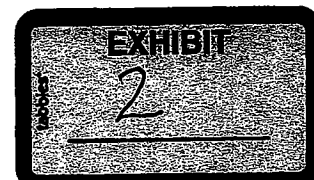
WHEREFORE, Petitioner prays the Court commit the respondent, Michael T Huynh, to the Commissioner of Human Services, or other treatment facility according to law.

I declare under penalty of perjury under the laws of the state of Minnesota that the foregoing is true and correct.

Executed on this 4 day of April, 2022, in the county of Hennepin, in the state of Minnesota.

/s/ Gray Bloss
(Signature)

Name: Gray Bloss, LGSW
Address: Hennepin County Medical Center, 701 Park Avenue, Minneapolis, MN 55415



03/29/2022 - ED to Hosp Admission (Discharged) in HCMC - 255222

Letters (continued)

Phone: 612-873-3000

In the Matter of
Michael T Huynh

FILE NO.

The following observations of the patient's behavior provide a factual basis for believing the patient is, Mentally Ill, and in need of hospitalization.

Mr. Michael Huynh is a 51 year old Vietnamese-speaking male with a history of Mood Disorder who was brought to the ED on 03/29/2022 secondary to a motor vehicle accident in which he collided with a semi-truck while driving the wrong way within the setting of a suicide attempt.

The patient was received by Dr. Rischardson on 03/29/2022, "51 yo M who was driving on the wrong side of the road and head-on semi, unclear if restrained. Also has recent legal issues and concern that this is suicidal attempt. Initially was responsive and trying to choke himself and later became unresponsive. Intubated at St. Francis prior to arrival 2/2 non-responsiveness."

The patient was assessed on 04/01/2022 by Dr Ward, "Mr. Huynh denies SH/SI and would not elaborate on why he attempted suicide. He refused to engage during the discussion and provider team was unable to have an accurate suicide assessment. Given high lethality of attempt and refusal to engage, team has recommended pt be placed on 72 hr hold and psychiatry team will start commitment process... Mr. Huynh denies SH and when asked about SI he states "I don't know." When asked about his emotional state, he continually replies "not good today." He does endorse feeling better yesterday. He would not disclose the difference between yesterday and today. He does state he feels safe in hospital.

Attempted to speak w/ pt about his discussion w/ primary team about interaction w/ 15 y.o. boy. Pt would not speak about it. Told pt he did not have to talk about what happened w/ us if he did not want to. Informed pt our purpose was to help his mental health and emotional wellbeing. Pt calmly let Writer know he no longer wanted to talk. Informed pt Writer may stop by later.

Conversation w/ Wife:

Wife, Kim, has been very distraught about her husband. She relays her husband told her he was hearing a voice to kill himself and that he did not allow her to visit him today. She was very concerned about this. Informed wife, Michael's behavior is not atypical for someone w/ recent suicide attempt. Wife asked if there was anything that happened today to make Michael more upset. Did not inform wife about incident regarding 15 y.o. boy. Instead, spoke to wife about Michael being on 72 hr and commitment process. She agrees he needs to be hospitalized as she is worried he will try to hurt himself again. She is very worried about him. Through conversation she is very tearful.

Wife also mentions being unable to speak English and unable drive. She lives far away. She is able to get a ride to the hospital through Sunday 4/3, but will no longer have a ride after. She is struggling w/ what is happening and has two friends and sister, but is not so close w/ sister and friends are busy w/ their families. Asked pt if she would want to be informed of legal status and she would. Told wife would put note in chart to keep her updated."

In light of the gravity of the circumstances precipitating admission coupled with the extent to which his capacity to care for himself in a purposeful way is presently compromised, Hennepin Healthcare is of the position that Mr.

03/30/2022 - EP to Hennepin Hospital (3/30/2022) 11

Letters (continued)

Michael Huynh is in need of civil commitment at this time.

/s/ Gray Bloss 04/04/2022

Letter by Crow, Kelsey M, MS on 3/31/2022

Status: Open

Letter body:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT – ADULT SERVICES DIVISION
FOURTH JUDICIAL DISTRICT

EXAMINER'S STATEMENT IN SUPPORT
OF PETITION FOR COMMITMENT

In the Matter of:
Michael T Huynh

I am a licensed physician or licensed consulting psychologist, and I am knowledgeable, trained and practicing in the diagnosis and treatment of:
Mental Illness, Mental Retardation and Chemical Dependency

I have examined the above named person within the last fifteen days, on 3/31/2022, and the results of the examination are stated below:

Behavioral evidence to support commitment:

Mr. Huynh denies any current SH/SI or plan to kill himself. He denies having any past hx of SH/SI or prev suicide attempts. He describes over the last month feeling desperate about a stressor in his life saying, "I didn't feel I could get through it." When asked to elaborate, pt refused and said it was "personal" or "private." Multiple attempts to re-ask the question led to the same answer. Pt was very dismissive of current hospitalization and of suicide attempt. He feels he only needs to be physically healed so he "can work w/ his hands" and "go back to work." He stated he feels better, knows he has help and that "I can get through it." He does not believe he needs to have a psychiatric evaluation.

Diagnostic impression and conclusions: Suicide Attempts. Mood Disorder, Unspecified

Recommended treatment:

He refused to engage during the discussion and provider team was unable to have an accurate suicide assessment. Given high lethality of attempt and refusal to engage, team recommended in-patient psychiatry admission.

I am of the opinion that the above named person is in need of treatment and should be committed to a treatment facility.

03/30/2022 - ED to Hosp Admission (Discharged) in HCMC

Letters (continued)

Will this person need neuroleptic medications? NO

Does this person have sufficient awareness of their situation and an understanding of treatment with neuroleptics to make this decision for themselves? NO

Dated: 3/31/2022

Signature: /s/ _____ Dr. Randy Ward
Examiner's name: Dr. Randy Ward

Hennepin County Medical Center
701 Park Avenue
Minneapolis, MN 55404

END OF REPORT

Notes (group 4 of 4) (continued)

Electronically signed by Fosu, Kofi, MD at 3/29/2022 3:45 PM

Progress Notes by Kolstad, Gretchen, RT at 3/29/2022 1530

RESPIRATORY VENT NOTE

Vent Settings: Ventilation Mode: AC, VC (Vol Ctrl)
Inspiratory Volume (mL): 510 mL
Ventilator Rate: 12 breaths per minute
Oxygen Concentration (%): 25
PEEP (cmH2O): 5 cm
- Inspiratory Time (sec): 0.92
Exhaled Min Volume (mL): 6.63 mL
Peak Press: 21 CM H2O
Static Press: 19 CM H2O
Mean Airway Pressure (cm H2O): 9.5 cm H2O
Compliance (mL/cm H2O): 39 mL/cm H2O

Weaning: No
Breath Sounds: clear
Secretions: thin, blood tinged, small
Treatments: ventilator care

Will continue to Monitor and provide support.

Kolstad, Gretchen, RT, 3/29/2022 3:30 PM

Electronically signed by Kolstad, Gretchen, RT at 3/29/2022 3:30 PM

Progress Notes by Anderson, Karna, MDIV at 3/29/2022 1255

Chaplain Stabilization Room Note

Michael T Huynh DOB: 10/31/1970 Sex: male MRN:

LOS: 0 days

Initial Description: Michael T Huynh BIBA from St Francis Hospital after MVC this morning. Apparently had some sort of cord around his neck

Patient and Family Context: Wife, Kim (952-258-3238) here along with her friend, Kay (651-492-8954) who has been very supportive and is helping out with English as Kim and Michael are Vietnamese speakers. Kim does seem to understand some English but Interpreter is needed for all medical information. Kay understands more English but again, Interpreter needed for medical information. There is Vietnamese in house interpreter here in house today 3/29 who is able to be called back as needed. Kim had not been provided with very much medical info before she arrived here and had not heard about some sort of cord found around Michael's neck so she was caught by surprise with that information. That seemed to affect her a lot as it was then that she became more tearful. I stayed for support, hospitality in ED and then escorted them to SICU and got them settled there. Hospitality and introduction/orientation to

03/29/2022 - ED to Hosp Admission (Discharged) in HCMC Program

Notes (group 4 of 4) (continued)

staff and unit before leaving them to be with Michael who is intubated and sedated. Kim will be staying with friends and will have someone with her that speaks good English to help out with communication from the hospital when she is not here. They are Buddhist and had no specific needs that way, but do appreciate support

Plan: Spiritual Care Team is available to support patient and family as needed via pager 336-0410.

Anderson, Karna, MDIV, 3/29/2022 12:55 PM

Pager: 336-0410

Electronically signed by Anderson, Karna, MDIV at 3/29/2022 1:10 PM

Consults by Krook, Jon C, MD at 3/29/2022 1240

Consult Orders

1. CONSULT TO INTENSIVIST [220720869] ordered by Fosu, Kofi, MD at 03/29/22 1547

SICU CONSULT G3

Michael T Huynh DOB: 10/31/1970 Sex: male MRN: [REDACTED]

Summary:
Michael T Huynh is a 51 y.o. male who initially presented to OSH after being involved in a MVA after travelling the wrong direction at highway speeds. Responders also found the patient with a telephone cord wrapped around his neck. On pan scan at OSH he was originally thought to have rib fractures on the left of ribs 4-7, but on final read he was determined to have no fractures. He arrived in the stab room as a transfer from OSH for myoclonic jerking and subsequently received long-acting paralytic. No clear seizure activity, thought to potentially have an anoxic brain injury prior to transfer. Intubated and sedated on propofol. Fast U/S negative in stab room. He is now brought up to the SICU.

Assessment and Plan:

Neuro:

Assessment: Sedated on propofol on arrival. The patient may have suffered an anoxic brain injury but had a reassuring neuro exam with purposeful movements, attempted self extubation, and largely negative imaging outside of the rib fractures. CTA of neck with no evidence of carotid artery dissection or intracranial aneurysm. OSH CT showed no intracranial abnormality. PTA takes meclazine 25mg TID prn for vertigo.

Plan:

- Q1H neuro check
- Tylenol 625mg Q4H
- Fentanyl
- Propofol gtt, wean as able
 - monitor CK/TG Q72H
- Obtain over read of OSH CT c spine films before d/c'ing c spine precautions

HEENT:

Assessment: OSH CT showed an age indeterminate left medial orbital wall and nasal bone fractures.

Plan:

- Consult to OMFS

03/29/2022 - ED to Hosp Admission (Discharged) to HCMC

Notes (group 4 of 4) (continued)

Cardiac:

Assessment: Decreased NiBP's on presentation to stab. No obvious evidence of bleeding. May be due to propofol. No elevated trop. PTA lisinopril 20mg daily and amlodipine 5mg daily. Lactate elevated to 3.0 on arrival.

Plan:

- Cardiac monitoring and frequent vitals
- Hold PTA antihypertensives at this time
- Volume resuscitation with crystalloid/colloid vs blood product as needed

Pulmonary:

Assessment: Intubated and mechanically ventilated, minimal settings (FiO2 25%, PEEP 5). Imaging showed aspiration consolidation medial bilateral lower lobes. No injuries to chest/abdomen on imaging.

Plan:

- Mechanical ventilation. Monitor saturation and blood gasses.
- PS
- Likely extubation today

Gastrointestinal/Nutrition:

Assessment: NPO. Incidental hepatic steatosis on imaging.

Plan:

- Continue NPO
- Place corpak if unable to be extubated.
- Bedside swallow study if extubated shortly

Electrolytes:

Assessment: Low potassium on arrival (2.4), repleted. Other electrolytes wnl.

Plan:

- Replete electrolytes. Recheck as needed.

Renal:

Assessment: Foley in place. Ketone and protein present on urinalysis but otherwise WNL. 1L LR bolus given on arrival. Started on NS at 125 ml/hr.

Plan:

- Monitor Cr and U/O. Maintain U/O with MIVFs.
- Foley protocol

Endocrine:

Assessment: At risk for stress-induced hyperglycemia.

Plan:

- Monitor FSBGs, supplementary insulin (sliding scale vs. infusion), if needed.

Hematologic:

Assessment: Hemoglobin 11.2. INR 1.2 and PTT 23.8 on arrival. Fibrinogen 167.

Plan:

- Follow Hgb and coags, transfuse as necessary.

Infectious Disease:

Assessment: Leukocytosis of 17 with elevated absolute neutrophil count - likely reactive/stress-induced demargination. Afebrile. No infectious process suspected

Plan:

- Monitor fever curves and WBC.

03/29/2022 ED to Hosp Admission (Discharged) to HCMC Surgery Center (Discharged)

Notes (group 4 of 4) (continued)

Prophylaxis:

Famotidine for GI prophylaxis while intubated, SCDs for DVT prophylaxis. Chemical prophylaxis contraindicated due to bleeding risk at this time.

CHIEF COMPLAINT: Polytrauma

HISTORY OF PRESENT ILLNESS: Michael T Huynh is a 51 y.o. male who initially presented to OSH after being involved in a MVA after travelling the wrong direction at highway speeds. The patient's car was reportedly struck by 3 cars. Responders also found the patient with a telephone cord wrapped around his neck. It is unclear if he was wearing a seatbelt and no airbags deployed. He responded to pain on the scene and was intubated and sedated. He arrived in the stab room as a transfer from OSH for myoclonic jerking for which he subsequent received long-term paralytic after this. No clear seizure activity, thought to potentially have any anoxic brain injury prior to transfer. Found to have fractures of ribs 4-7 on the left on OSH pan scan. Intubated and sedated on propofol. Received additional sedation for attempts at self extubation. Fast U/S negative. He was purposely moving all four extremities. His potassium was low on presentation and repleted. He is now brought up to the SICU.

PAST MEDICAL/SURGICAL HISTORY:

HTN

Additional information is unable to be obtained due to unresponsiveness/intubation.

CURRENT HEALTH STATUS

Medications:

Medications Prior to Admission

Medication	Sig	Dispense	Refill
• amLODIPine (NORVASC) 5 mg oral TABS	Take 5 mg by mouth daily.		
• lisinopril (PRINIVIL; ZESTRIL) 20 mg oral TABS	Take 20 mg by mouth daily.		
• meclizine (UNIVERT) 25 mg oral tablet	Take 25 mg by mouth 3 times daily as needed for Vertigo.		

Per Epic/Outside records. Additional information is unable to be obtained due to unresponsiveness/intubation.

Allergies and drug reactions:

No Known Drug Allergies

Per Epic/Outside records. Additional information is unable to be obtained due to unresponsiveness/intubation.

PSYCHOSOCIAL HISTORY

Unable to be obtained due to unresponsiveness/intubation.

FAMILY HISTORY:

Unable to be obtained due to unresponsiveness/intubation.

REVIEW OF SYSTEMS:

Unable to obtain due to intubation

03/29/2022 - ED to Hosp Admission (Discharged) in HCMC Surgery

Notes (group 4 of 4) (continued)

PHYSICAL EXAMINATION:

Vital Signs:

BP (l) 125/106 | Pulse 82 | Temp 36.8 °C (98.3 °F) (Rectal) | Resp 16 | Wt 66.7 kg (147 lb 0.8 oz) | SpO2 100%

Neuro: Sedated. Arousable with vigorous stimulation. Moving extremities spontaneously/purposefully.

Head, eyes, ears, nose, throat: Intubated orotracheally. Scattered facial abrasion.

Neck: C-collar in place.

Cardiovascular: Regular rate and rhythm

Chest: Breath sounds clear bilaterally. Symmetric chest rise

Abdomen: Soft, nondistended, no grimacing with palpation

Extremities: No gross deformities or edema

GU: Foley in place, urine is clear

Pulses: Intact in all four extremities

Skin: Normal, no breakdown

REVIEW OF LABORATORY, PATHOLOGY, AND RADIOLOGY DATA:

Lab Results

Component	Value	Date
WBC	17.11 (H)	03/29/2022
RBC	5.86	03/29/2022
HGB	11.2 (L)	03/29/2022
HCT	36.9 (L)	03/29/2022
PLT	360	03/29/2022

Lab Results

Component	Value	Date
NA	141	03/29/2022
K	2.4 (AA)	03/29/2022
CHLORIDE	111 (H)	03/29/2022
GLU	100	03/29/2022
CR	0.70	03/29/2022

Labs and imaging reviewed.

Ryan Hatch, MS4

I Kofi Fosu, MD, saw the patient with the medical student and performed, or re-performed, the physical exam and medical decision-making and have verified the accuracy of all the medical student documentation and edited as necessary.

Fosu, Kofi, MD, 3/29/2022 3:59 PM
General Surgery Resident, PGY-3
Pager: 527-3025

FACULTY NOTE

I saw and evaluated the patient 3/29/2022. I discussed with the resident and agree with the resident's findings and plan documented in the resident's note from above. Any revisions by me are documented.

03/29/2022 - ED to Hosp Admission [redacted]

Notes (group 4 of 4) (continued)

Jon C. Krook M.D., F.A.C.S.
Hennepin County Medical Center
Department of Surgery

Electronically signed by Krook, Jon C, MD at 3/30/2022 1:09 PM

Nursing Assessment by Anton, Melinda R, RN at 3/29/2022 1200

Head to Toe Assessment

Shift Summary

Shift Summary

Neurological/Cognitive

Assessment Within Defined Limits except for:

Level of Consciousness: Sedated

HEENT

HEENT

Cardiac

Assessment Within Defined Limits except for:

Cardiac Monitor - bedside telemetry

Lead Monitored: Lead II

ECG Rhythm: normal sinus rhythm

Respiratory

Assessment Within Defined Limits except for:

Respiratory Assessment:

Mechanical Device: Continuous; Ventilator

Cough: Present

Frequency: Intermittent

Type: Productive

Neurovascular

Assessment Within Defined Limits except for:

Gastrointestinal

Within Defined Limits

Genitourinary

Assessment Within Defined Limits except for:

Voiding: Urinary catheter in place

03/29/2022 - ED to Hosp Admission (Discharged) in HCMC

Notes (group 4 of 4) (continued)

Musculoskeletal

Assessment Within Defined Limits except for:

Integumentary

Assessment Within Defined Limits except for:

Skin Assessment

Color/Characteristics - bruised (ecchymotic)

Patient Lines/Drains/Airways Status

Active LDAs

Name	Placement date	Placement time	Site	Days
Peripheral IV 03/29/22 18 gauge	03/29/22	1047	—	less than 1
Right Antecubital				
Peripheral IV 03/29/22 18 gauge	03/29/22	1047	—	less than 1
Left Antecubital				
Endotracheal Tube: oral	03/29/22	—	—	less than 1
endotracheal tube 7.5				
Urinary Catheter	03/29/22	1049	—	less than 1

Psychosocial

Within Defined Limits

Electronically signed by Anton, Melinda R, RN at 3/29/2022 7:34 PM

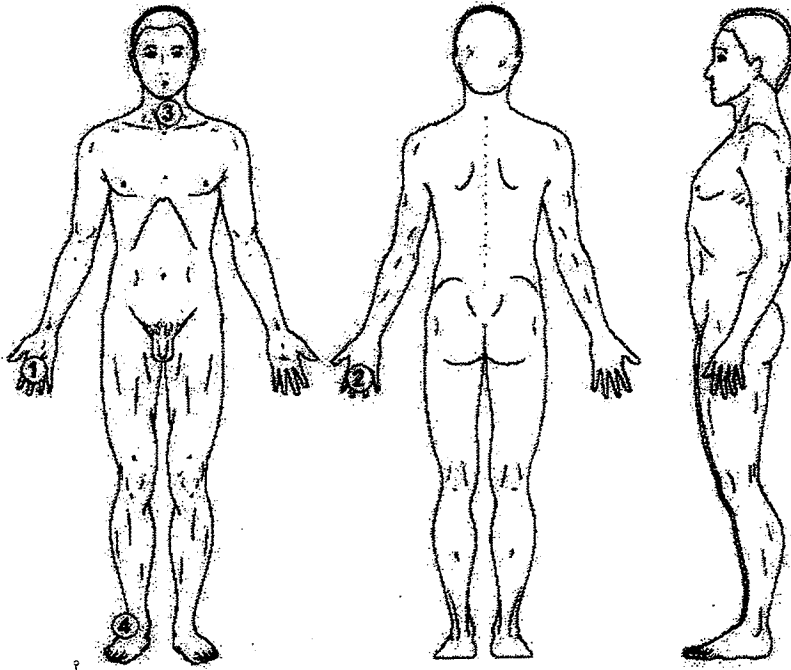
Progress Notes by Ahunkor, Chinonso E, RN at 3/29/2022 1130

Upon admission a Four Eyes Skin Inspection was completed with Mindee A. RN. Skin injuries were present. Will continue to use Braden Scale and skin bundle interventions as appropriate.

03/29/2022 - ED to Hosp Admission (Discharged) in HCMC Surgery Trauma Suite 2 (continued)

Notes (group 4 of 4) (continued)

Fig 1.1 Male figures, AP, PA, lateral, detail



- 1: Cuts and scratches
- 2: Abrasions
- 3: Abrasions across the neck
- 4: Cuts, scratches and abrasions

Electronically signed by Anunkor, Chinonso E, RN at 3/29/2022 12:05 PM

Progress Notes by Dawit, Nuhamin, RT at 3/29/2022 1047

Patient came in intubated from outside hospital with a 7.5 ETT. Initially came in at 22 at the teeth, advanced to 24. ETT verified by CXR and EtCO2. Patient placed on ventilator.

Electronically signed by Dawit, Nuhamin, RT at 3/29/2022 10:48 AM

ED Provider Notes

ED Notes by Zarzar, Rochelle A, MD at 3/29/2022 1701

ED Faculty Note

Michael T Huynh DOB: 10/31/1970 Sex: male MRN: 400000
Patient Arrival Date and Time: 3/29/2022 10:19 AM

03/29/2022 - ED to Hosp Admission (Discharged) to HCMC Surgery Service 2 (continued)

ED Provider Notes (continued)

FACULTY ATTESTATION

I, Rochelle Zarzar, MD, performed a history and physical examination of the patient and discussed management with the resident. I reviewed the resident's note and agree with the documented findings and plan of care as documented in the resident's note.

CRITICAL CARE

Upon my evaluation, this patient had a high probability of imminent life or limb-threatening deterioration due to MVC, which required my highest level of preparedness to intervene emergently, and I spent this critical care time directly and personally managing the patient.

I have personally provided 35 minutes of critical care time exclusive of time spent on separately billable procedures, treating other patients, or teaching time. Time includes obtaining history, reviewing medical records, examining the patient, ordering and review of studies, pharmacotherapy including sedation, pulse oximetry, review of laboratory data, interpretation of radiology studies, ECG interpretation, frequent reassessment, monitoring for potential decompensation, discussion with consultants and admission. This critical care time was performed to assess and manage the high probability of imminent deterioration that could result in death

Trauma Team: Tier 1 activation.

RN and ANCILLARY NOTES

I have reviewed nursing and ancillary notes, and agree with protocol as initiated.

PROCEDURES

Not applicable

MEDICAL DECISION MAKING

The current EKG reviewed and interpreted: , current labs reviewed and interpreted, current images reviewed and interpreted: , medical record discussed and medical record reviewed and interpreted

Please see the PMP note for full details of today's ED visit.

BP 116/76 (Cuff Location: Right Arm) | Pulse 88 | Temp 37.1 °C (98.8 °F) (Oral) | Resp 18 | Ht 1.676 m (5' 6") | Wt 66.7 kg (147 lb 0.8 oz) | SpO2 95% | BMI 23.73 kg/m²

Zarzar, Rochelle A, MD, 3/31/2022 5:01 PM

Electronically signed by Zarzar, Rochelle A, MD at 3/31/2022 5:02 PM

03/29/2022 ED to Hosp Admission (Discharged) in HCMC Surgery Trauma Room 2 (Trauma)

ED Provider Notes (continued)

ED Notes by Kruger, Cheyanne M, RN at 3/29/2022 1106

Pt arrived to stab room as a transfer from an OSH. Pt was involved in an MVC at highway speeds. Pt was driving with a cord wrapped around his neck in a suicide attempt. Pt was intubated at the OSH and was transferred due to "seizure like activity". On arrival pt is intubated and on propofol. Pt moving all extremities and purposeful movement to ETT. Sedation increased. Small superficial abrasion to face and ligature marks under the c-collar. Pt to CT scan and report called to SICU RN.

Electronically signed by Kruger, Cheyanne M, RN at 3/29/2022 11:10 AM

ED Notes by Kruger, Cheyanne M, RN at 3/29/2022 1105

IV fentanyl bag discontinued on pt's arrival and destroyed with charge RN as witness

Electronically signed by Kruger, Cheyanne M, RN at 3/29/2022 11:06 AM

ED Stabilization Note by Overton-Harris, Petter, DO at 3/29/2022 1032

Emergency Medicine Stabilization Room Note

Michael T Huynh 10/31/1970

Sex: male MRN: 111111

Patient Arrival Date and Time: 3/29/2022 10:19 AM

Emergency Medicine Faculty

Dr. Zarzar

EM Stabilization Resident

Overton-Harris, Petter, DO, 3/29/2022 12:49 PM

Stabilization Team

RN: Ian

HCA: Tenzin

Consultants trauma surgery

Pre-Hospital Events

Michael T Huynh is a 51 y.o. male presents to the stabilization room from outside hospital. The patient was reportedly found in his car following a highway speed MVC where he was driving against the flow of traffic and was found with a cord wrapped tightly around his neck with ligature marks. He presented to an outside hospital and subsequently intubated because he was unresponsive. There was a reported myoclonic jerking and he subsequently received long-term paralytic after this. No clear seizure activity, thought to potentially have any anoxic brain injury prior to transfer. Found to have ribs 4-7 fractures on the left at the outside hospital on CT pan scan.

Additional history is limited based on the patient's critical illness.

03/29/2022 ED to Hosp Admitted (Discharged) to HMC

ED Provider Notes (continued)

Primary Survey

Airway: Intubated

Breathing: Mechanically ventilated

Circulation: Skin warm. Radial pulses.

Disability: GCS 3T (1- Does not open eyes; 1T - Makes no sounds, intubated; 1 - Makes no movements)

Exposure: Clothing removed.

Vital Signs

BP (I) 125/106 | Pulse 82 | Temp 36.8 °C (98.3 °F) (Rectal) | Resp 16 | Wt 66.7 kg (147 lb 0.8 oz) | SpO2 100%

Please see flowsheet for additional vitals.

Secondary Survey

General: Awake, Alert, Appropriate. C-collar in place

Head: NC/AT. No postauricular ecchymosis noted. Scattered abrasions to the face

Eyes: No conjunctival injection, Lids normal, no periorbital ecchymosis noted

ENT: No drainage noted from external ears or nares. No hemotympanum

Neck: Supple. Trachea midline. Ligature marks noted on the superior neck

Cardio: RRR. Appears well-perfused

Pulm: See primary survey

GI: Soft, NT/ND.

GU: Normal external genitalia. No blood noted from the meatus

MUSK: Freely moving all extremities. No contractures, deformities or cyanosis. No TTP or crepitance over large joints, chest wall,

pelvis No midline cervical, thoracic, or lumbar TTP or stepoffs palpated

Neuro: Patient intubated and sedated, however the patient had purposeful movements with reaching towards the ET tube with

his left arm, spontaneous movements of bilateral lower extremities, interval mild movement of the right upper extremity

Skin: No rashes. Small scattered abrasions on the lower extremities. Skin warm/dry

Psych: Limited exam d/t acuity of patient's condition

Review of Systems

Review of systems and history limited by patient's acuity

Code Status

am unaware of any advanced directive wishes of this patient prior to treatment of this patient.

Procedures

performed the following procedures:

Adult Trauma Resuscitation.

Michael T Huynh is a 51 y.o. male presenting with critical polytrauma, MVC, strangulation injury. As the patient arrived to the stabilization room, report was taken from medics. Patient transferred to STAB cart. Primary survey completed while patient placed on oximetry, cardiac monitoring, and cuff blood pressure monitoring. Trauma surgery paged. Intravenous access established and initial blood tests sent. Secondary survey completed

The patient was intubated and sedated on arrival, he began to purposely move his extremities with attempts at self extubation, he subsequently received additional sedation. This is an encouraging sign given the initial concern from report of hypoxic brain injury.

FAST U/S negative

CT pan scan from the outside hospital reviewed, consistent with rib fractures, otherwise negative, no CT angiography

- obtained, subsequently ordered in the emergency department
- CXR without acute abnormalities, ET tube high, repositioned
- Labs notable as below
- The patient may have suffered an anoxic brain injury but had a reassuring neuro exam with purposeful movements and largely negative imaging outside of the rib fractures.
- Plan to admit patient to surgical ICU to the trauma surgery service
- Report was called to the admitting team. Patient was transferred to their inpatient bed without complication.

03/29/2022 - ED to Hosp Admission (Pneumonia) (Pneumonia)

ED Provider Notes (continued)

Abs Monocyte 0.90

Abs Eosinophil 0.04

Abs Basophil 0.03

1249 **ED CHEMISTRY**

LABS(NA,K,CL,CO2,GLU,CREAT,CA-

IONIZED,ANION GAP)(I):

Sodium 141

Potassium 2.4(I)

Chloride 111(I)

AnGap 8

Glucose 100

ICA, Actual 3.44(I)

ICA pH Corrected 3.49(I)

Creatinine 0.70

BICARB 22

eGFR, High >120

eGFR, Low 109

Replaced K

1249 **BLOOD GASES(I):**

PH Ven 7.43(I)

PCO2 Ven 33(I)

PO2 Ven 35

Bicarb Ven 22(I)

O2 Sat Ven 64

Base Exc Ven -2.3

1249 **ED HEMOGLOBIN TOTAL (ED ONLY)(I):**

Hgb 9.9(I)

Sepsis Protocol: NA

Clinical Impression

1. Critical polytrauma

Disposition

Admit to trauma surgery for continued care, further neuro medication

Overton-Harris, Petter, DO, 3/29/2022 12:49 PM PGY-3

Emergency Medicine Resident

Electronically signed by Overton-Harris, Petter, DO at 3/29/2022 12:50 PM

ED Notes by Coombe-Bandt, Carelie M, RN at 3/29/2022 0854

Report received from St. Francis. Pt reportedly was struck by 3 cars on the hwy, Observed to be traveling the wrong way earlier. Responders found a telephone cord wrapped around his neck. Unknown if he was wearing a seatbelt. No airbags deployed. He responded to pain at the scene. He is intubated and currently has propofol at 30/hr and pentanyl at 25mcg/hr. Has received vecuronium x2. Has non displaced rib fractures. Foley and OGG also placed prior to transport

03/29/2022 - ED to Hosp Admission (Discharge)

ED Provider Notes (continued)

Electronically signed by Coombe-Bandt, Carelia at 3/29/2022 8:58 AM

H&P

H&P by Richardson, Chad J, MD at 3/29/2022 1026

TRAUMA SURGERY HISTORY AND PHYSICAL - PGY 1

Michael T Huynh DOB: 10/31/1970 Sex: male MRN: 400012

Patient Arrival Date and Time: 3/29/2022 10:19

History of Present Injury Event: 51 yo M who was driving on the wrong side of the road and head-on semi, unclear if restrained. Also has recent legal issues and concern that this is suicidal attempt. Initially was responsive and trying to choke himself and later became unresponsive. Intubated at St. Francis prior to arrival 2/2 non-responsiveness.

LOC: Yes - brief < 1 hr

INJURY CAUSE: Motor Vehicle Crash involving a(n) other vehicle semi that was hit Head-on. He was the driver and was not ejected. The vehicle was travelling at a speed of unknown mph.

Protective Devices: Unknown

Trauma Team Activated: Yes - Tier 1

Trauma Team Notified by:

Tier Level page received at 1022

Staff Surgeon: Chad Richardson

Pediatric Patient < 15 years: No.

Hennepin Trauma Team Time Out Completed: Yes

HISTORY

Past Medical History: Unable to obtain

Past Surgical History: Unable to obtain

Social History: Unable to obtain

Family History: Unable to obtain

Medications: Unable to obtain

Allergies: Unable to obtain

Patient accepts blood products: Unable to inquire of patient/family at this time

REVIEW OF SYSTEMS

Unable to obtain - intubated

PHYSICAL EXAM

Vital Signs: BP 125/91 | Pulse 85 | Temp 36.8 °C (98.3 °F) (Rectal) | Resp (l) 22 | Wt 66.7 kg (147 lb 0.8 oz) | SpO2 100%

Glasgow Coma Scale:

Motor 5=Localizes pain

4/15/2022 - Admission (Discharged) in HCMC Psychiatry O8 - 1

Admission Information

Admission Information

Arrival Date/Time:	Admit Date/Time:	04/05/2022 1749	IP Adm. Date/Time:	04/05/2022 1749
Admission Type:	Point of Origin:	Transfer From One Distinct Unit To Another Distinct Unit In Same Hospital	Admit Category:	
Means of Arrival:	Primary Service:	Psychiatry	Secondary Service:	N/A
Transfer Source:	Service Area:	HCMC-HFA SA	Unit:	HCMC Psychiatry O8 - 1
Admit Provider:	Heath, Ian J, MD	Attending Provider:	Heath, Ian J, MD	Referring Provider:
				Stahler, Paul A, MD

Discharge Information

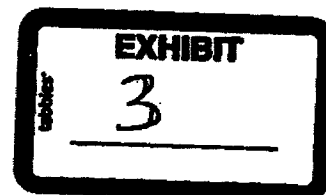
Date/Time: 04/15/2022 1457	Disposition: Discharged To Home Or Self Care (Routine Discharge)	Destination: Dsch - Home
Provider: Heath, Ian J, MD	Unit: HCMC Psychiatry O8 - 1	

Discharge Summary

Discharge Summary by Heath, Ian J, MD at 4/15/2022 1258

PSYCHIATRIC DISCHARGE SUMMARY - PGY 4

Michael T Huynh DOB: 10/31/1970 Sex: male MRN: **26522**



DATE OF ADMISSION: 4/5/2022

DATE OF DISCHARGE: 4/15/2022

DISPOSITION: Home

ATTENDING PSYCHIATRIST: Ian Heath, MD

OUTPATIENT PSYCHIATRIST: None. Follow-up planned with Scott County Mental Health and/or S1 walk-in clinic

PRIMARY CARE PROVIDER: Mark Westholder, MD through HealthPartners

ADMISSION DIAGNOSES

Major Depressive Episode, Single episode, with psychotic features

DISCHARGE DIAGNOSES

Major Depressive Episode, Single episode, with psychotic features

Pertinent medical diagnoses:

S/p MVA

HTN

Hyperlipidemia

SUMMARY OF HOSPITAL COURSE

Michael Huynh is a 51-year-old man, Vietnamese-speaking, who was transferred to inpatient psychiatry following inpatient medical hospitalization following suicide-attempt via driving his car against the flow of traffic resulting in MVC. While on inpatient medicine, patient was evaluated by psychiatry consult, patient exhibited signs/symptoms of major depressive disorder with psychotic features; he was found with a telephone cord wrapped around his neck with notable ligature marks with endorsement of suicidal ideation/intent; he initially requested discharge to home from medicine and was placed on 72-hour hold and petition for MI commitment placed; this was subsequently discontinued following patient providing voluntary consent to continue inpatient psychiatric treatment and mood stabilization.

04/05/2022 - Admission (Discharged) in HCMC Psychiatry 08 - 1 (continued)

Discharge Summary (continued)

Although the patient was guarded, and informed of his right to remain silent, he informed that there was an allegation made against him pertaining to an alleged sexual interaction with a 15 yo male. A CPS report was made regarding patient's statement. No known legal proceedings related to the alleged incident occurred during his hospital admissions.

Upon inpatient psychiatry admission and evaluation, patient appeared subdued, with restricted affect, endorsed depressive ruminations and prior suicidal intent in his behaviors. He was experiencing auditory hallucinations at the time of admissions, these were challenging to clarify, but he stated that he heard voices and/or ego-dystonic urges that led to his suicidal behaviors. He exhibited sleep disturbance, both initial insomnia and early-morning awakening, reduced appetite, and psychomotor slowing, and anxious distress. The options of antidepressant and/or anxiety adjunct medication were discussed with patient as well as the option of ECT given the severity of depressive symptomatology.

Patient was initiated on antidepressant monotherapy with mirtazapine that was subsequently titrated over the course of his admission. He tolerated this medication well and appeared to have an early and robust response in both his mood and anxiety symptoms. He was also started on low-dose Ativan to address anxious distress and sleep disturbance in the setting of acute depressive episode with benefit. Patient had no history of prior substance-abuse was informed on risks of dependence and potential for abuse, though he was evaluated to be at low-risk for adverse effects.

Over the course of his admission, patient exhibited significant improvement in mood and anxiety symptoms. Sleep duration/quality, appetite disturbance, and psychomotor slowing showed great improvement within a few days of initiating medications. Auditory hallucinations/psychotic features resolved by day 5 of admission as did passive suicidal ideation. He became more active on the unit and social withdrawal/isolation symptoms gradually resolved. With further titration to mirtazapine 45 mg HS, patient also exhibited improvements in motivation, energy levels, and began demonstrating a significant shift toward future-orientation and hope/optimism in his thought content. He expressed future-goals including resuming work, working on his English skills, and increasing his engagement with family relationships. His affective range improved with noticeable brightening and ability to engage in humor. Subsequent regression in sleep benefit with the higher dosing of mirtazapine was addressed by a modest increase in nighttime lorazepam dosing, lorazepam was later switched to an as-needed basis given the global improvements in depression symptoms.

He had no behavioral issues during his admission. His family was highly supportive of patient and involved in his care, with frequent visits. Family expressed agreement with psychiatric management and concurred with assessment of patient's clinical improvements and readiness for discharge.

On the day of discharge, patient's thought process was organized and coherent and content was future-oriented without passive or active suicidal ideation. No HI, no AVH, paranoia, or other psychotic phenomena were present. He was advised on the risk/benefits of his current medications and both he and family were advised on plan to utilize lorazepam on an as-needed basis until anxious distress and residual insomnia remained improved. Instruction was given that patient avoid driving in the immediate, high-risk period following discharge until being seen for psychiatric follow-up and advised to avoid driving following use of benzodiazepine. Patient and family (niece) were advised on crisis services, APS, and HCMC walk-in clinic and primary plan for scheduled follow-up to be arranged with Scott County MH. Patient and family (niece), expressed understanding and agreement with the plan. He was discharged in stable, improved condition with a 30-day supply of all medications and plan for follow-up in place.

RECOMMENDATIONS AND FOLLOW-UP:

- 1.) Discharge to home
- 2.) Follow-up with outpatient psychiatry; to be arranged by Scott County Mental Health. HCMC Shapiro Walk-in clinic information also provided.

04/05/2022 - Admission (Discharged) in HCMC Psychiatry Q8 - 1 (continued)

Discharge Summary (continued)

- 1.) Medications per hospital regimen.
- 2.) Remain sober from alcohol and illicit substances
- 3.) Follow up with PCP in a couple of weeks or as needed

The next level of care provider has access to the EMR: Yes. Information sent also to Scott County MHC in advance of scheduled follow-up.

PENDING TEST RESULTS:

None

RECOMMENDATIONS OF ANY SUB-SPECIALTY CONSULTANTS:

Per Medicine Evaluation 4/5/22:

ASSESSMENT AND PLAN:

Aspiration consolidation medial bilateral lobes: resolved, seen on CT chest 3/29 at Allina, largely resolved by chest x-ray here later the same day. Lungs clear on exam
- monitor

Non-displaced left anterolateral rib fractures, 4-6, possibly 7: on CT scan at Allina, has tenderness to left anterolateral rib cage, no discoloration or bony prominences.
- monitor

- has pm oxycodone 5 mg q6h, consider taper soon
- continue Tylenol 975 TID for now

Age-indeterminate left medial orbital wall and nasal bone fractures: some bruising around right orbit, non-tender to palpation. Denies persistent visual blurring or eye pain.
- monitor

Possible pre-DM2: A1c 6.2 on admission, placed on insulin low s/scale on medicine, likely for trauma precaution, but had only 3 doses of 2 units each in 8 days on STN2.
- d/c insulin
- POC glucose checks daily for 5 days
- consider metformin

HTN: BP well-controlled so far.
- continue amlodipine 5 mg daily, lisinopril 20 mg daily

Hx hyperlipidemia:
- check panel

Smoking cessation: denies smoking

Palm, David A, APRN, CNP, 4/5/2022 5:52 PM

HOSPITAL PROBLEM LIST

Principal Problem:
Major depressive disorder, single episode, severe (**)
Active Problems:
Suicide attempt (**)
Resolved Problems:

ADDENDUM 268

04/05/2022 - Admission (Discharged) in HCMC Psychiatry 08 - 1 (continued)

Discharge Summary (continued)

* No resolved hospital problems. *

DISCHARGE VITALS:

BP 120/82 | Pulse 90 | Temp 36 °C (96.8 °F) (Tympanic) | Resp 14 | Wt 62.2 kg (137 lb 3.2 oz) | SpO2 98% | BMI 22.14 kg/m²

DISCHARGE MENTAL STATUS EXAMINATION:

Appearance: No apparent distress, Neatly groomed and Appears stated age and in good physical health
Behavior/relationship to examiner/demeanor: Cooperative, Engaged and Pleasant, appropriate eye contact
Speech rate: Normal
Speech volume: Normal
Speech articulation: Normal per interpreter
Speech coherence: Normal
Speech spontaneity: Normal
Thought Process (Associations): Logical/goal-directed
Thought process (Rate): Normal
Thought content: No suicidal ideation, No violent ideation and No homicidal ideation. No paranoia or delusional ideation. +Future-oriented content, hopefulness for the future. Improvement in depressive ruminations, guilt.
Abnormal Perception: None, resolved
Insight: Adequate, improved
Judgment: Adequate, improved
Sensorium: Alert, Oriented to person, Oriented to place, Oriented to date/time and Oriented to situation
Memory: Immediate recall intact, Short-term memory intact and Long-term memory intact
Attention/Concentration: Normal, adequate
Fund of Knowledge/Intelligence: Average
Mood (subjective report): "better," "good"
Affect (objective appearance): Appropriate/mood-congruent, improvement in range, brightens socially
Motor activity/EPS: Normal muscle strength and tone and Normal motor exam
Gait/Station: Normal
Language: Intact per interpreter

Interpreter Needed: yes- Vietnamese [43]

PLANNED DISCHARGE ORDERS:

Discharge Procedure Orders

Set up Med Minders and educate.

Order Comments: Set up Med Minders process and educate patient/caregivers.
Scheduling: Specify what patient education is needed.
Instructions:

Why you were at the hospital:

Order Comments: You were in the hospital to have your mood stabilized and to have your depression treated.

Your legal status at discharge: No current

Major Tests/Treatments During This Encounter

Order Comments: Your care did not include major test or treatments, but followed an individualized treatment plan that included medication management, psychotherapy, and occupational therapy.

04/05/2022 - Admission (Discharged) in HCMC Psychiatry 08 1 (continued)

Discharge Summary (continued)

Studies Pending at Discharge

Order Comments: There were no pending lab tests or other tests at the time of your hospital discharge.

When should I be concerned?

Order Comments: Please call your Primary Care Provider, your clinic Psychiatrist, 911, or Acute Psychiatric Services (APS) at 612-673-3161. It is located on the 1st floor of the red building (717 South 7th Street) if:

- you have not slept for 2 or more nights in a row
- you have thoughts of self-harm
- you have thoughts of harming others
- you have increased depression
- you have feelings of helplessness or hopelessness
- you are unable to enjoy or complete usual activities

After discharge phone call:

Order Comments: - A nursing staff person will call you 2 to 3 days after you are discharged to see how you are doing.

Please keep the appointments that have already been made.

Order Comments: - Please keep the appointments that have already been made.

Please contact your primary care provider as needed.

Order Comments: Please contact your primary care provider as needed.

Ways to cope:

Order Comments:

- Take prescribed medicines as scheduled
- Keep follow-up appointments
- Talk to others about your concerns
- Get regular exercise
- Eat a healthy diet
- Use community resources
- Stay sober

Up as tolerated activity level.

Order Comments: UP AS TOLERATED

- Rest is an important part of healing. Save your energy by spreading out activities that make you tired. Rest as needed.
- Slowly increase your level of activity.

Resume Previous Activity

Order Comments:

- You may continue your usual level of activity. It is important to get regular activity!
- Rest is also an important part of healing. Save your energy by spreading out activities that make you tired.

Regular diet

Order Comments: - Eat a wide variety of foods, including fruits and vegetables, dairy, grains and meats.

Take your medicine and plan ahead for refills

Order Comments:

- It is important that you take the medicines on your list. Work with your health care provider or pharmacist if you have questions about your medicine.
- Plan ahead and use the Refill Line so that you don't run out of your medicine. It may take time to review your chart and get the medicine ordered.

Medication List

04/05/2022 - Admission (Discharged) in HCMC Psychiatry 06 - 1 (continued)

Discharge Summary (continued)

START taking these medications

Clonazepam 0.5 mg tablet

Commonly known as: ATIVAN

Take 1-2 tablets (0.5-1 mg) by mouth twice daily as needed for Anxiety (Insomnia).

Melatonin 5 mg Tabs

Take 1 tablet (5 mg) by mouth at bedtime.

Mirtazapine 45 mg Tabs

Commonly known as: REMERON

Take 1 tablet (45 mg) by mouth at bedtime.

Polyethylene glycol 3350 17 gm/scoop powder

Commonly known as: MIRALAX/GLUCOLAX

Take 1 capful to "17 gm" mark mixed with full glass of water twice every day as directed.

Replaces: polyethylene glycol 3350 17 g Packet

Simvastatin 20 mg Tabs

Commonly known as: ZOCOR

Take 1 tablet (20 mg) by mouth at bedtime.

CHANGE how you take these medications

Sennexon-S 8.6-50 mg tablet

Generic drug: sennosides-docusate sodium

Take 2 tablets by mouth twice daily as needed for Constipation.

What changed:

- when to take this
- reasons to take this

CONTINUE taking these medications

Amlodipine 5 mg Tabs

Commonly known as: NORVASC

Take 1 tablet (5 mg) by mouth daily.

Lisinopril 20 mg Tabs

Commonly known as: PRINIVIL; ZESTRIL

Take 1 tablet (20 mg) by mouth daily.

Meclizine 25 mg tablet

Commonly known as: UNIVERT

STOP taking these medications

04/05/2022 - Admission (Discharged) in HCMC Psychiatry OB - 1 (continued)

Discharge Summary (continued)

enoxaparin 30 mg/0.3 mL Solution
Commonly known as: LOVENOX

Insulin ASPART 100 units/mL FlexPen
Commonly known as: NovoLOG

HydroxyCODONE 5 mg tablet
Commonly known as: ROXICODONE

Polyethylene glycol 3350 17 g Packet
Commonly known as: MIRALAX/GLYCOLAX
Replaced by:

ASK your doctor about these medications

Acetaminophen 325 mg tablet
Take 3 tablets (975 mg) by mouth 3 times daily.

Where to Get Your Medications

**These medications were sent to HCMC Discharge 701 Park Avenue Red Building, Lower
Pharmacy - Red LL Level, Minneapolis MN 55415**

Hours: 24/7

Phone: 612-873-8586

- amlodipine 5 mg Tabs
- lisinopril 20 mg Tabs
- lorazepam 0.5 mg tablet
- melatonin 5 mg Tabs
- mirtazapine 45 mg Tabs
- polyethylene glycol 3350 17 gm/scoop powder
- Senexon-S 8.6-50 mg tablet
- simvastatin 20 mg Tabs

REVIEW OF ANTIPSYCHOTIC MEDICATIONS:

This patient was not discharged on multiple antipsychotic medications

LEGAL STATUS AT TIME OF DISCHARGE:

Voluntary

Susan Strand, MD
Psychiatry PGY-4
Telmediq Pager: 612-400-7124

DISCHARGE FACULTY NOTE

On 4/15/2022, I personally participated in the final examination and review of hospitalization and concur with the

Page 10

04/05/2022 - Admission (Discharged) in HCMC Psychiatry 08 - 1 (continued)

Discharge Summary (continued)

Discharge plans and follow-up as outlined. I discussed with the resident and agree with the resident's findings and plan documented in the resident's note from above. Any revisions by me are documented. The discharge process has taken: greater than 30 minutes

Heath, Ian J, MD, 4/21/2022 2:43 PM

Electronically signed by Heath, Ian J, MD at 4/21/2022 2:43 PM

STATE OF MINNESOTA
COURT OF APPEALS

[POSTAL/MAILING
ADDRESS IF
APPLICABLE]

NOTICE OF CASE FILING
Trial Court Case # 70-CR-22-14898
Case Type: Other

Case Title: State of Minnesota, Respondent, vs. Michael Tien Huynh, Petitioner.
Case Filed: February 15, 2024

You are notified that case number A24-0269 has been assigned to this matter. Please include this number on all subsequent filings, including correspondence, to this office. Also, please include your attorney registration number on all filings.

Effective July 1, 2014, no party may submit an appendix to its brief, pursuant to Rule 130. If the record includes a statement of the proceedings made pursuant to Rule 110.03 or an agreed statement made pursuant to Rule 110.04, the statement shall be included in the addendum as prescribed by Rule 130.02. Please refer to Rule 130.02 for additional guidelines regarding the addendum.

This office will send notice to the trial court administrator when transmission of the trial court records and exhibits is required. If oral arguments are requested, counsel must file and update notice regarding oral arguments, to provide information about potential scheduling conflicts. The form is available at: www.mncourts.gov/argumentscheduling

Proof of service of the Petition for Discretionary Review on counsel for respondent is required.

Proof of filing a copy of the Petition for Discretionary Review with the district court administrator is required.

IF ANY DEFICIENCIES ARE NOTED ABOVE, THEY MUST BE CORRECTED BY THE FILING PARTY (OR AS OTHERWISE NOTED) WITHIN TEN DAYS. FAILURE TO COMPLY WITH THIS NOTICE, ALL APPLICABLE RULES, COURT NOTICES, AND ORDERS MAY RESULT IN THE IMPOSITION OF SANCTIONS.

The Court of Appeals' Standing Order on Paper Copies of Briefs has been updated. Pursuant to Rule 131.03 (<http://mncourts.gov/mncourtsgov/media/Appellate/Admin-COA-Order-Paper-Copies-of-Briefs.pdf>), effective August 1, 2019, paper copies of e-filed briefs must include a signed certification including the following language:

I hereby certify that the content of the accompanying paper brief and addendum or addenda, if applicable, is identical to the electronic version filed and served, except for any binding, colored cover, or colored back, and I understand that any corrections or alterations to a brief filed electronically must be separately served and filed in the form of an errata sheet.

Dated: February 16, 2024

BY THE COURT:

Christa Rutherford-Block
Office of the Clerk of the Appellate Courts
305 Minnesota Judicial Center
St. Paul, Minnesota 55155

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

February 19, 2024

**OFFICE OF
APPELLATE COURTS**

State of Minnesota

Appeal No: A24-0269

Respondent

Trial Court Case No: 70-CR-22-14898

vs.

Date of Decision: January 19, 2024

Michael Tien Huynh

Date of Filing: February 15, 2024

Petitioner

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Eric Anunobi, being first duly sworn on oath deposes and states that on Thursday, February 15, 2024, he did serve a copy of the Petition for Discretionary Review on the Counsel for Respondent by e-filing. He also served a copy of the same by direct delivery to one Ms. Lori M, a Legal Assistant/Receptionist in Respondent Counsel's office on Friday, February 16, 2024

I declare under penalty of perjury that everything I have stated in this document is true and correct, pursuant to Minn. Stat. § 358.116

Dated: February 19, 2024


Eric Anunobi

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

February 19, 2024

**OFFICE OF
APPELLATE COURTS**

State of Minnesota

Appeal No: A24-0269

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Trial Court Case No: 70-CR-22-14898

vs.

Date of Decision: January 19, 2024

Michael Tien Huynh

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AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Eric Anunobi, being first duly sworn on oath deposes and states that on Friday, February 16, 2024, he did serve a copy of the Petition for Discretionary Review on the Attorney General of Minnesota by direct mail delivery.

I declare under penalty of perjury that everything I have stated in this document is true and correct, pursuant to Minn. Stat. § 358.116

Dated: February 19, 2024


Eric Anunobi

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

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**OFFICE OF
APPELLATE COURTS**

State of Minnesota

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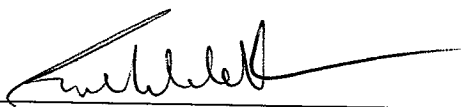
AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Eric Anunobi, being first duly sworn on oath deposes and states that on Thursday, February 15, 2024, he did serve a copy of the Petition for Discretionary Review on the Scott County District Court Administrator by e-filing.

I declare under penalty of perjury that everything I have stated in this document is true and correct, pursuant to Minn. Stat. § 358.116

Dated: February 19, 2024



Eric Anunobi

STATE OF MINNESOTA
IN COURT OF APPEALS



State of Minnesota,

Respondent,

**SPECIAL
TERM
ORDER¹**

vs.

#A24-0269

Michael Tien Huynh,

Petitioner.

Considered and decided by Segal, Chief Judge; Ross, Judge; and Johnson, Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE
FOLLOWING REASONS:**

Petitioner Michael Tien Huynh seeks discretionary review of the district court's January 19, 2024 pretrial order denying his motion to suppress a statement he made to police. The state has not filed a response.

Huynh is charged with six counts of criminal sexual conduct. Huynh moved to suppress a statement he made to a detective while he was hospitalized for treatment of injuries he sustained in a motor vehicle accident and on a 72-hour hold for suicidal ideation. After a contested omnibus hearing, the district court entered an order on January 19, 2024, denying the suppression motion.

¹ Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Criminal defendants generally do not have a right to appeal until final judgment has been entered. *State v. Verschelde*, 585 N.W.2d 429, 430 (Minn. App. 1998) (citing Minn. R. Crim. P. 28.02, subd. 2(2)). But this court “may allow an appeal from an order not otherwise appealable” in the interests of justice. Minn. R. Crim. P. 28.02, subd. 3. “Minnesota Rule of Civil Appellate Procedure 105 governs the procedure for the appeal.” *Id.*

In determining whether to grant discretionary review, this court considers multiple factors, including: whether the challenged ruling is vested in the district court’s discretion; whether the ruling is questionable or involves an unsettled area of the law; the impact of the ruling on the petitioning party’s ability to proceed; the importance of the legal issue presented; whether appellate review would benefit from the development of a more complete record; whether the legal issue would evade review if the appeal is deferred until the underlying case has been decided; and any special circumstances in the case. *Gordon v. Microsoft Corp.*, 645 N.W.2d 393, 398-402 (Minn. 2002) (addressing factors appropriately considered in deciding petitions for discretionary review). Generally, discretionary review is only extended to important legal questions that have broad applicability. *See id.* at 399 & n.7. “The supreme court later clarified that the *Gordon* factors should be strictly applied only in the context of a class-certification ruling.” *Doe 175 v. Columbia Heights Sch. Dist. No. 13*, 842 N.W.2d 38, 47 (Minn. App. 2014) (citing *Valspar Refinish, Inc. v. Gaylord’s Inc.*, No. A05-1640 (Minn. Nov. 22, 2005) (order)). In other contexts, “[t]his court has discretion to consider additional factors and circumstances

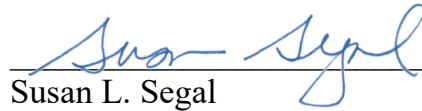
that may apply to the particular case.” *State v. Plevell*, 889 N.W.2d 584, 588 (Minn. App. 2017). A petitioner must also show a “compelling reason for this court to grant discretionary review” of a nonappealable order. *State v. Jordan*, 426 N.W.2d 495, 496 (Minn. App. 1988).

Huynh argues that the district court’s ruling is important and has broad application because it involves the question of whether a defendant on a 72-hour mental health hold is in custody to require a *Miranda* warning before being interrogated by police. We are not persuaded that this issue is sufficiently important to meet the requirements for discretionary review. The district court’s ruling does not involve an unsettled or questionable area of law but the application of existing law with which Huynh disagrees. Huynh’s arguments regarding the importance of the question focus entirely on how the district court’s ruling is important to his case. For example, he argues that discretionary review is necessary to promote settlement and his ability to negotiate. And he argues that an appeal from final judgment does not provide him an adequate remedy because jurors would be prejudiced against him based on his statement. But neither argument shows how the district court’s ruling has broad applicability. Moreover, the criminal rules provide for a court trial or expedited review of dispositive pretrial rulings, and Huynh has not shown how these remedies are inadequate. *See* Minn. R. Crim. P. 26.01, subds. 2, 3, 4. Finally, Huynh has not shown a compelling reason that would persuade us to exercise our discretionary appellate jurisdiction, and the time and expense of a jury trial does not by itself establish such a compelling reason. *See State v. Smith*, 656 N.W.2d 420, 423-24 (Minn. App. 2003).

IT IS HEREBY ORDERED: The petition for discretionary review is denied.

Dated: March 19, 2024

BY THE COURT

A handwritten signature in blue ink, appearing to read "Susan Segal", is written over a horizontal line.

Susan L. Segal
Chief Judge