

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF HENNEPIN****FOURTH JUDICIAL DISTRICT**

State of Minnesota,

Plaintiff,

**STATE'S MEMORANDUM IN SUPPORT
OF MOTION FOR JOINDER**

vs.

MNCIS Nos: 27-CR-22-3551

27-CR-22-3552

27-CR-22-3553

**ASHLEY JEWEL OAKGROVE,
SAMUEL LEE HAWKINS,
WILLIAM LEE NABORS.**

C.A. File Nos: 22A01992

22A01993

22A01997

Defendants.

TO: THE HONORABLE JULIE ALLYN, JUDGE OF DISTRICT COURT; CAROLINE HICKS, ATTORNEY FOR DEFENDANT OAKGROVE; MADSEN MARCELLUS, ATTORNEY FOR DEFENDANT HAWKINS; PETER MARTIN, ATTORNEY OF DEFENDANT NABORS.

INTRODUCTION

Ashley Oakgrove, Samuel Hawkins, and William Nabors, Defendants herein, are each charged with Aiding and Abetting Assault in the First Degree in violation of Minn. Stat. § 609.221, subd. 1, and Aiding and Abetting Third Degree Assault in violation of Minn. Stat. § 609.223, subd. 1. Based on the arguments herein, the State respectfully requests that the Court join Defendants Oakgrove, Hawkins, and Nabors for trial.

FACTS

On February 22, 2022, at approximately 8:17 pm, officers were dispatched to an assault that occurred at a parking ramp located at 1001 2nd Avenue South in Minneapolis, Hennepin County, Minnesota. Remarks of the call indicated that security staff observed a male getting assaulted while monitoring security cameras and that EMS was needed.

Officers arrived and were directed by staff to a lower level of the building. Officers observed the male victim on the ground being treated to by Fire Department personnel. Victim was unconscious and covered in his own blood from an apparent head injury.

Officers went to the camera room and spoke with the reporting party, L.M., who was locating footage of the assault. Officers reviewed the footage. The footage shows five individuals who appear to be looking for Victim. Victim can be see looking around a corner, attempting to hide, before he eventually laying down on the ground. Defendant Hawkins then locates Victim and begins to stomp/kick him in the head approximately six times. Defendant Hawkins then motions for Defendant Oakgrove to come over. Defendant Oakgrove and Defendant Nabors walk over to Victim, who is unconscious, face-down on the ground.

Defendant Hawkins then drags Victim more towards the lobby where he kicks Victim in the head again. Defendant Oakgrove is present during the assault and then begins taking Victim's boots off. Defendant Hawkins kicks Victim in the head again as Defendant Oakgrove is removing Victim's boots.

Defendant Nabors walks into the frame as Defendant Hawkins stomps on Victim's head and Defendant Oakgrove removes his boots. Defendant Nabors picks up Victim's boots and looks at Victim, whose head has begun bleeding. Defendant Hawkins drags Victim again and leaves him face-down on the ground. Defendant Oakgrove then kicks Victim in the head. Defendants Hawkins and Oakgrove then begin taking Victim's clothes off and going through his pockets as Defendant Nabors stands by. Defendant Hawkins kicks Victim in the head one more time before the parties all leave.

Additional footage shows Defendants in the elevator. The footage shows Defendant Hawkins taking his hat off and giving it to Defendant Oakgrove. Defendant Oakgrove then gives Defendant Hawkins her hat and Defendant Hawkins puts it on.

Officers located Defendants in the area and took them into custody. Officers observed fresh blood on Defendant Hawkins' boots.

In a post-*Miranda* statement, Defendant Oakgrove told officers that Victim had physically abused her in the past. Defendant Oakgrove stated that Victim broke her nose the previous week and was prohibited from being around her due to a no contact order. Defendant Oakgrove stated that on February 22nd, Victim was watching her and her friends from afar, and that her friends know that Victim has been "following her around." Defendant Oakgrove stated that Defendant Hawkins beat Victim up but claimed she didn't see the assault as it occurred around the corner. Defendant Oakgrove at first denied kicking Victim in the head, but then admitted that she kicked him in the head. Defendant Oakgrove stated that she kicked Victim and took his boots off to show Victim she is not scared of him. Defendant Oakgrove stated that she is "holding grudges because of what [Victim] did to [her]."

In a post-*Miranda* statement, Defendant Hawkins told officers that Victim was physically abusive toward Defendant Oakgrove, including on February 22nd. Defendant Hawkins stated that Defendant Oakgrove called him and requested that he beat Victim up. Defendant Hawkins stated that they were all hanging out and claimed that at one point, Victim started beating up Defendant Oakgrove. Defendant Hawkins stated he and others stepped in to protect Defendant Oakgrove. Defendant Hawkins claimed that Victim then passed out and Defendant Oakgrove kicked the Victim first. This, of course, is contradicted by surveillance video. Defendant Hawkins admitted he kicked Victim in the head multiple times and that he observed Victim bleeding from the head.

Defendant Hawkins admitted that he did not want to get in trouble, so he put a different hat on in the elevator.

In a post-*Miranda* statement, Defendant Nabors stated that he was with Defendants Oakgrove and Hawkins, as well as Victim, about an hour prior to the assault. Defendant Nabors told officers that they arrived at the incident location, and he walked up and saw Defendants Hawkins and Oakgrove standing next to a person on the ground. Defendant Nabors admitted that he saw blood around Victim's head and that he took Victim's boots but claimed he did not know what was going on.

Victim's medical records show that he was unresponsive when he arrived at the Hennepin County Medical Center on February 22, 2022. Victim's level of consciousness was measured using the Gasgow Coma Scale ("GCS"). GCS is the summation of scores for eye, verbal, and motor responses. The minimum score is a 3, which indicates a deep coma or brain-dead state. Victim scored a 3. Victim was intubated.

In addition, to facial trauma, Victim was diagnosed with a Traumatic Brain Injury ("TBI"). TBI is classified as mild, moderate, and severe based on the Glasgow coma scale (GCS). Traumatic brain injury patients with GCS of 13 to 15 are classified to be mild, which includes the majority of traumatic brain injury patients. Patients with a GCS of nine to 12 are considered to have a moderate traumatic brain injury, while patients with a GCS below eight are classified as having a severe traumatic brain injury. The minimum score is a 3, which indicates a deep coma or brain-dead state. Victim scored a 3 on the GCS.

Victim remained in an obtunded state with a decreased level of consciousness over the next several weeks and required 24-hour assistance. Victim required a feeding tube until March 1, 2022. After that, Victim was on an all-liquid diet due to an inability to swallow and chew

normally until March 22, 2022. Victim was also incontinent of bladder and bowel until March 11, 2022.

Victim was discharged from the hospital on March 22, 2022, and his team recommended post-acute placement with 24-hour supervision due to Victim's cognitive and physical limitations. At the time of discharge, Victim still suffered decreased ambulatory skills, motor skills, cognitive function, and linguistic function. Victim still required a cane to walk. Victim was instructed to attend physical therapy five times per week and referred to post-acute speech pathology services.

ARGUMENT

I. THE DEFENDANTS SHOULD BE JOINED FOR TRIAL IN THIS ACTION UNDER MINN. R. CRIM. P. 17.03.

Under the Minnesota Rules of Criminal Procedure, two or more defendants charged with the same offense may be tried separately or jointly at the court's discretion. Minn. R. Crim. P. 17.03 subd. 2. In determining whether joinder is proper, courts must consider four factors:

- (1) the nature of the offense charged;
- (2) the impact on the victim;
- (3) the potential prejudice to the defendant; and
- (4) the interests of justice.

Id.; see also *State v. Blanche*, 696 N.W.2d 351, 371 (Minn. 2005). In this case, consideration of these four factors strongly supports the State's motion for joining Defendants in a single trial.

A. The Nature of the Offense Weighs in Favor of Joinder, As the Charged Criminal Activity Was Committed By the Defendants Acting Together.

This Court must first consider the nature of the offense charged. Minn. R. Crim. P. 17.03 subd. 2. "The nature of the offense charged favors joinder when the 'overwhelming majority of the evidence presented [is] admissible against both [defendants], and substantial evidence [is]

presented that [codefendants] worked in close concert with one another.” *State v. Johnson*, 811 N.W.2d 136, 142 (Minn. Ct. App. 2012) (citing *State v. Martin*, 773 N.W.2d 89, 99-100 (Minn. 2009); *see also State v. Powers*, 654 N.W.2d 667, 674-75 (Minn. 2003) (finding joinder was appropriate when defendants to aggravated robbery charges planned together, worked together, fled together, and endeavored to hide evidence together); *State v. Greenleaf*, 591 N.W.2d 488, 499 (Minn. 1999) (identifying the “identical nature of the charged offenses” and the nearly identical evidence as supporting the trial court’s decision to join two defendants.)).

In this case, Defendants worked in concert to assault Victim. All three Defendants are charged with the same crime, the evidence is admissible against all three, and all Defendants played a role in the crime. All three Defendants executed a plan to find Defendant and assault him in retaliation for having abused Defendant Oakgrove in the past. Defendant Hawkins located Victim and began stomping on his head. Defendant Hawkins then called over Defendant Oakgrove, who removed Victim’s boots and also kicked him in the head. Defendant Nabors took Victim’s boots and acted as a lookout while Defendant Hawkins and Oakgrove began going through Victim’s pockets and taking off his clothes. All three parties left together and made the decision to not call 911, leaving Victim facedown in a pool of his own blood. Defendant Hawkins and Oakgrove worked together to switch hats in the elevators in an attempt to conceal their identities. Defendants planned the assault together, worked in close concert to carry out the assault, and fled together.

Additionally, the evidence presented against each Defendant will be nearly identical. Testimony from Victim, officers, medical personnel regarding the injuries Victim sustained, and surveillance footage leading up and capturing the assault would all be evidence offered in each trial. In separate trials, evidence of the actions of the other codefendants would be admitted at

each trial. The only evidence that would differ from one Defendant to another are the statements of each Defendant the State would offer. In Defendant Hawkins' trial, the State would offer that Defendant Hawkins admitted to assaulting Victim because Victim was "beating" Defendant Oakgrove. At Defendant Oakgrove's trial, the State would offer that Defendant Oakgrove also stated "Sam" beat Victim up, and that she initially denied kicking Victim herself, but then admitted that she kicked him and took his boots off to show him she isn't scared of him.

Therefore, the first factor weighs in favor of joinder because the overwhelming majority of evidence presented is admissible against all Defendants, and this evidence shows that Defendants worked in close concert with one another.

B. The Victim in This Case Will Suffer a Negative Impact If Separate Trials Are Conducted.

Consideration must be given to the "impact on the victim." Minn. R. Crim. P. 17.03, subd. 2. An important consideration in evaluating the impact on a victim is the crime's nature. *State v. Strimling*, 265 N.W.2d 423, 432 (Minn. 1978).

In the present case, the Victim suffered a serious TBI that caused significant cognitive impairment, required extensive physical therapy, and necessitated hospitalization for approximately five weeks. Victim is still recovering from those injuries. A joint trial allows the victim to testify once, instead of re-living this incident unnecessarily, and undergoing the stress of testifying multiple times. Therefore, this factor weighs in favor of joinder.

C. No Defendant Will Suffer Any Substantial Prejudice as A Result Of Joinder.

The third factor the Court must consider is the potential prejudice to the Defendants. In determining whether joinder may be prejudicial Minnesota courts require significantly more than an assertion of possible prejudice. *State v. DeVerney*, 592 N.W.2d 837, 842 (Minn. 1999). "Substantial prejudice is not simply whether the defenses presented were different, but whether

the defenses were inconsistent, or whether the defendants sought through their chosen defenses to shift blame to one another.” *Id.* Minnesota law creates no presumption that joinder of co-defendants at trial alone denies an individual defendant of their fair trial rights. *State v. Powers*, 654 N.W.2d 667, 676 (Minn. 2003).

In *DeVerney*, one of the co-defendants argued that he was not guilty while the other argued that he was not guilty, he was intoxicated, or was acting under duress. *DeVerney*, 592 N.W.2d at 842. The court found that the co-defendants did not seek to shift blame to one another and the jury would be forced not to choose between the co-defendants’ theories, but between the State’s theory and the defendants’ theories. *Id.* The court held that joinder did not result in substantial prejudice because the defenses offered by the two defendants, while different, were not antagonistic. *Id.* Additionally, the court in *State v. Powers* asserted that, “absent an offer of proof or the identification of any inconsistent or antagonistic defense by the appellant, there was no indication that joinder would substantially prejudice his trial.” 654 N.W.2d 667, 675 (Minn. 2003).

Concerning potential prejudice from evidence, even if some evidence were admissible against one of the Defendants, this does not necessarily result in substantial prejudice to a codefendant. *DeVerney*, 592 N.W.2d at 842. In *State v. Hathaway*, the Court approved a joint trial even where some of the evidence admitted in the joint trial would not have been admitted in an individual trial. 379 N.W.2d 498, 503 (Minn. 1985). The *Hathaway* court approved of a limiting instruction that the jury should consider evidence admissible against only one defendant strictly in regard to that defendant’s guilt or innocence. *Id.* The Court found that the jury has the ability to separate evidence that inculcates only one of the defendants from evidence that inculcates both of the defendants on a particular charge. *Id.*

Here, Defendants have not presented antagonistic defenses. This is not a situation where Defendants are pointing the finger at each other and each claiming the other assaulted Victim and that he or she did not. Importantly, each Defendant's actions are captured on surveillance video. Moreover, Defendant Hawkins admitted to kicking Victim in the head repeatedly. Defendant Oakgrove also admitted to kicking Victim once in the head and to taking his boots off. Defendant Oakgrove's statements indicate that her defense will be to minimize her participation in the assault and argue she did not direct Defendant Hawkins to carry out the assault. Similarly, Defendant Nabors' defense appears to be that he did not have knowledge of the assault, did not participate in the assault, and did not take any actions intended to aid the assault. Joinder will not hinder these defenses.

Arguably, the only piece of prejudicial evidence resulting from joinder would be Defendant Hawkins' statement that Defendant Oakgrove instructed him to beat up Victim. Generally, a codefendant's confession inculcating another codefendant is inadmissible as hearsay. *State v. Gruber*, 264 N.W.2d 812, 817 (Minn. 1978). It is also clear that where the codefendant does not take the stand, the admission of such a statement violates defendant's right to confront and cross-examine witnesses against him or her under the Sixth Amendment. *Id.* (citing *Bruton v. United States*, 391 U.S. 123 (1968)). Therefore, this statement would not be introduced or admissible in a joint trial and eliminates any prejudice against Defendant Oakgrove.

Defendant Hawkins may argue that his inability to testify that Defendant Oakgrove instructed him to carry out the assault is prejudicial. However, being instructed to carry out the assault does not make Defendant Hawkins any less culpable or negate this guilt, especially given his admission that he beat Victim up and surveillance video showing him repeatedly kicking

Victim in the head. Defendant Hawkins has not otherwise identified any inconsistent or antagonistic defense, and there is no indication that joinder would substantially prejudice his trial.

Overall, joinder is appropriate because no substantial prejudice will occur if the Defendants are joined at trial and none of the Defendants' abilities to offer a defense and conduct his or her own trial strategy will be impaired.

D. The Interests of Justice Support a Joint Trial.

The final element considered in determining whether Defendants should be joined is the interests of justice. One such interest is that of judicial efficiency and economy. Joint trials play a vital role in the criminal justice system. They promote efficiency and serve the interests of justice by avoiding the scandal and inequity of inconsistent verdict. *United States v. Zafiro*, 506 U.S. 534, 537 (1993). Conducting one trial would promote judicial economy by eliminating a second trial where the victim, witnesses, police officers, jurors, counsel, and judges and their courts staff would all be required to double their availability and efforts. *See State v. Jackson*, 773 N.W.2d 111, 119 (Minn. 2009) (noting that the "length of separate trials is a legitimate factor in deciding to join cases"). The coordination of trial efforts by the State, Defense, and the Court itself present a heavy undertaking. Multiple third parties are involved in the process, and separate trials would require duplication of the already substantial efforts invested in trial preparation and the actual trial (including presentation of duplicative evidence against each Defendant). This is especially true because this case will involve a substantial number of medical professionals who will testify regarding Defendants' TBI, condition over the course of his stay at the hospital, and recovery following discharge from the hospital. For these reasons, the interests of justice weigh in favor of the Defendants' joint trial.

In the present case, the crime committed by Defendants was committed simultaneously. Defendants acted closely in concert with one another. The witnesses involved in their cases will all be the same—the same police officers, witnesses, and medical professionals, will all be compelled to testify. Thus, requiring three trials would be an inefficient use of the court's time and resources. Consequently, the interests of justice support granting a joint trial in this case.

CONCLUSION

Minnesota law supports granting the State's Motion for Joinder in this case. First, Defendants jointly participated in the same criminal act against the victim resulting in the same charges. Second, the interests of the victim and the witnesses would be negatively impacted if three trials commenced requiring extended testimony. Third, Defendants are not prejudiced by a joint trial, and will be able to conduct a defense in a single trial. Finally, the interests of justice support a joint trial in this case. For the foregoing reasons, the State respectfully requests that the Court join the Defendants for trial.

Respectfully submitted,

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