

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT

State of Minnesota,

File No. 85-CR-23-937

Plaintiff,

v.

**NOTICE OF MOTION AND
MOTION FOR A CHANGE OF
VENUE**

Adam Taylor Fravel,

Defendant.

TO: The Honorable Nancy L. Buytendorp and Karin L. Sonneman, Winona County Attorney, 171 West Third Street, Winona, MN 55987

PLEASE TAKE NOTICE that on March 20, 2023, as soon thereafter as counsel can be heard, the Defendant, through his attorney, will move the Court for an Order, pursuant to Minn. R. Crim. P., Rule 24.03 and Rule 25.02, granting his motion for a change of venue on the grounds that a fair and impartial trial cannot be had in Winona County, where the case is currently pending. This motion is due to the extensive media coverage, including but not limited to a three-part series by KTTC, newspaper articles, a "Justice for Maddi" float sponsored by the Winona County Sheriff's Office during Winona Steamboat Days, as well as the overwhelming number of residents of Winona County and other surrounding counties that participated in the search efforts for Ms. Kingsbury. Furthermore, the population of Winona County in July of 2023 was 49,478. Based upon census data, from 2020, approximately 36.2% of the population is either under the age of 18 years old or over the age of 65 years old. Given the overwhelming media coverage, the amount of prejudicial information that has been disseminated, and the population in Winona County, there is a reasonable likelihood that a fair trial for Mr. Fravel cannot be accomplished in Winona County.

MOTION

Minnesota Rule of Criminal Procedure 24.03 & 25.02 outline the grounds by which a Court can order a change of venue. Minn. R. Crim. P. 24.03, subd. 1 states that a case may be transferred to another county if (1) the court is satisfied that a fair and impartial trial cannot be had in the county in which the case is pending; (2) for the convenience of parties and witnesses; (3) in the interests of justice and (4) as provided by Rule 25.02 governing prejudicial publicity.

Minnesota Rule of Criminal Procedure 25.02, subd. 1, indicates that a change of venue may be granted on motion of any party or on the court's initiative. Subdivision two indicates the manner in which a motion for change of venue due to pretrial publicity can be proven; (a) testimony, affidavits, or written statements signed under penalty of perjury pursuant to Minn. Stat. § 358.116, from individuals in the community; (b) qualified public opinion survey; or (c) other material having probative value. Testimony, affidavits, or written statements from individuals in the community are not required as a condition for granting the motion. Subdivision three outlines the standards for granting a change of venue due to pretrial publicity: "A motion for change of venue must be granted whenever potentially prejudicial material creates a reasonable likelihood that a fair trial cannot be had. Actual prejudice need not be shown."

PREJUDICIAL MATERIAL

The Defendant's motion to change venue is rooted in prejudicial material which creates a high likelihood that a fair trial cannot be had.

I. Winona: KTTC

KTTC is a television station affiliated with NBC, which broadcasts throughout

Southeast Minnesota and Northern Iowa.¹ While broadcasts are limited to Southeast Minnesota and Iowa, KTTC.com is the networks website which provides free access to myriad KTTC stories, articles, and reports. Notably, KTTC has an entire publicly accessible page dedicated to Madeline Kingsbury.² The web page includes the following news stories, videos, and reports:

- I. *Winona Police seek help with finding missing woman* (News, April 1, 2023)
- II. *Fillmore County Sheriff's Office is asking residents to report searches for missing Winona woman* (Video, April 3, 2023)
- III. *Police believe missing Winona woman's disappearance 'involuntary and suspicious'* (Video, April 5, 2023)
- IV. *Mass search for missing Winona woman planned for April 7* (News, April 6, 2023)
- V. *Nearly 2,000 volunteers search for missing Winona mother of two* (Video, April 7, 2023)
- VI. *Hundreds search for Madeline Kingsbury Saturday, police give update* (News, April 8, 2023)
- VII. *Sister of Winona missing woman breaks family's silence in search* (Video, April 11, 2023)
- VIII. *Winona police give update on Madeline Kingsbury investigation* (News, April 12, 2023)
- IX. *'Nothing in life prepares you for this': Madeline Kingsbury's family releases statement* (News, April 12, 2023)
- X. *Documents detail custody of Kingsbury's kids, father refused to hand over kids to authorities* (Video, April 12, 2023)
- XI. *'We will bring her home': Winona police update search for Madeline Kingsbury* (News, April 17, 2023)
- XII. *Brother of missing Winona woman weighs in on search efforts* (Video, April 18, 2023)

¹ <https://www.kttc.com/>.

² <https://www.kttc.com/news/kingsbury/>.

- XIII. *Search for missing Winona woman continues, volunteers search Yucatan* (Video, April 23, 2023)
- XIV. *Winona Police Department makes new request in search for missing woman* (News, April 26, 2023)
- XV. *Search efforts for missing Winona woman remain strong* (News, April 29, 2023)
- XVI. *One month missing, what we know about Madeline Kingsbury's disappearance* (Video, May 1, 2023)
- XVII. *"Shining a Light for Madeline" event set for Friday night in Winona* (News, May 5, 2023)
- XVIII. *Winona community gathers for vigil, holding out hope for missing woman* (Video, May 5, 2023)
- XIX. *Close friend of missing Winona woman gives update on search* (Video, May 10, 2023)
- XX. *Former partner of Maddi Kingsbury appears in court seeking custody of children* (News, May 15, 2023)
- XXI. *Documents reveal new arguments in Kingsbury custody battle* (Video, May 17, 2023)
- XXII. *Winona County recruits special prosecutor for Madeline Kingsbury* (Video, May 20, 2023)
- XXIII. *Volunteers search Mississippi River shoreline for Madeline Kingsbury* (Video, May 27, 2023)
- XXIV. *Light the way home for Madeline Kingsbury* (Video, May 31, 2023)
- XXV. *Children of Madeline Kingsbury to remain with Kingsbury family* (Video, June 5, 2023)
- XXVI. *Family and friends organize benefit for Madeline Kingsbury* (Video, June 7, 2023)
- XXVII. *Human remains found north of Mabel, ex-boyfriend of Madeline Kingsbury arrested for second-degree murder* (Video, June 7, 2023)
- XXVIII. *Family confirms body of Madeline Kingsbury found north of Mabel* (Video, June 8, 2023)

- XXIX. *WATCH: News conference in Kingsbury investigation* (Video, June 8, 2023)
- XXX. *Timeline of Madeline Kingsbury's disappearance* (Video, June 8, 2023)
- XXXI. *Who is Adam Fravel? Father of Madeline Kingsbury's children arrested for second-degree murder* (Video, June 8, 2023)
- XXXII. *Former partner of Madeline Kingsbury charged with 2 counts of 2nd degree murder* (Video, June 9, 2023)
- XXXIII. *WATCH: Winona County Attorney provides update in Kingsbury case* (Video, June 9, 2023)
- XXXIV. *'I am furious', friend of Madeline told to be quiet by Fravel family* (Video, June 9, 2023)
- XXXV. *Benefit for Madeline Kingsbury raises more than \$30,000* (News, June 11, 2023)
- XXXVI. *Adam Fravel moved to Olmsted County Adult Detention Center* (News, June 12, 2023)
- XXXVII. *Madeline Kingsbury's parents file motion to remove Adam Fravel's visitation, contact with children* (News, June 12, 2023)
- XXXVIII. *Advocacy Center of Winona supports community after death of Madeline Kingsbury* (Video, June 13, 2023)
a. Advocacy Center of Winona is a domestic violence group.
- XXXIX. *Former partner of Madeline Kingsbury to keep parental rights in custody case* (Video, June 14, 2023)
- XL. *Madeline Kingsbury memorial service planned for Sunday* (News, June 20, 2023)
- XLI. *WATCH: Memorial Service for Madeline Kingsbury at 1:00 p.m.* (Livestream, June 25, 2023)
- XLII. *'Her Story touched a lot of people': Family, friends, and more attend Madeline Kingsbury's Memorial* (Video, June 25, 2023)
- XLIII. *Custody battle for the children of Madeline Kingsbury comes to an end* (News, June 29, 2023)
- XLIV. *Prosecutors seek aggravated sentence against Adam Fravel* (News, July 11, 2023)
- XLV. *Adam Fravel's omnibus hearing delayed until September* (News, July 19, 2023)

- XLVI. *'Know that Adam did it', unsealed documents detail new evidence in Kingsbury case* (Video, July 31, 2023)
- XLVII. *Hearing for man charged with Madeline Kingsbury's murder rescheduled* (News, September 19, 2023)
- XLVIII. *Former Kingsbury partner indicted on first-degree murder charges* (News, October 2, 2023)
- XLIX. *Higher charges, increased bail for Madeline Kingsbury's ex-boyfriend charged with her murder* (Video, October 3, 2023)
 - L. *Medical Examiner's Office releases Madeline Kingsbury autopsy report, several details "unknown"* (Video, October 4, 2023)
 - LI. *Adam Fravel's parents seek order to visit grandkids* (Video, October 20, 2023)
 - LII. *Domestic violence resources* (November 14, 2023)
 - LIII. *HOW TO WATCH: 'Finding Madeline' series* (Video, November 16, 2023)
 - LIV. *Finding Madeline: Episode One* (Video, November 16, 2023)
 - LV. *Finding Madeline: Episode Two* (Video, November 16, 2023)
 - LVI. *Finding Madeline: Episode Three* (Video, November 16, 2023)
 - LVII. *Additional offenses could be offered in Kingsbury murder case* (Video, November 20, 2023)
 - LVIII. *Adam Fravel in court Thursday* (Video, December 14, 2023)
 - LIX. *Jury trial in Kingsbury case could happen in fall* (Video, December 14, 2023)

Certainly, KTTC's most notably prejudicial segments produced for Southeast Minnesota are those discussing domestic violence, and those using "clickbait" to draw viewers in. "Clickbait" is defined as "something (such as a headline) designed to make readers want to click on a hyperlink especially with the link leads to content of dubious

value or interest.”³ One KTTC segment that obviously employs clickbait is the segment “‘Know that Adam did it’, unsealed documents detail new evidence in Kingsbury case,” published July 31, 2023. Without question, a resident of Southeast Minnesota might read that headline and come to conclusions about Mr. Fravel’s role in the death of Ms. Kingsbury.

Finally, KTTC’s coverage of Ms. Kingsbury’s disappearance in the Spring of 2023 highlights the effect media coverage and word-of-mouth in Southeast Minnesota had on community involvement in the matter. KTTC reported that Fillmore County Sherriff’s Office asked residents to search for Ms. Kingsbury, and then KTTC reported that nearly 2,000 volunteers searched for Ms. Kingsbury on April 7, 2023; that “around 700” people searched for Ms. Kingsbury on April 8, 2023; that “about 50” people searched the Yucatan Wildlife Management Area; that “about one hundred” volunteers searched for Ms. Kingsbury April 29, 2023; and reported that volunteers searched Latch Island in Winona on May 27, 2023. This evidences both the effect KTTC reporting had on the gathering of volunteers, and the number of community members who participated in searches on evenings and weekends in April and May.

II. The Search for Maddi

In addition to the prejudicial pre-trial publicity there are other reasons that would support a change of venue in this matter under Minn. R. Crim. P. 24.03, subd. 1(a) & 1(c). One of the aspects of this case that makes it distinct from other cases in the community is the investment in the search for Ms. Kingsbury. It is well documented in

³ *Clickbait*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/clickbait> (last accessed January 18, 2024).

many news stories and through statements of the Winona County Sheriff's Office and the Bureau of Criminal Apprehension that thousands of volunteers throughout Winona County and SE Minnesota participated in the search for Ms. Kingsbury in the days and weeks after her disappearance. The outpouring of support and resources from the "public" was simply overwhelming. It is a testament to the Winona County community. However, there was a substantial investment by the community and its residents in this case. The Court is now asking many of those same individuals to be jurors in a case where either they, or people they know, invested time and/or money in the search for Mr. Fravel's alleged victim. In addition, to the community investment there have been a number of large community functions that have focused on "Justice for Maddi." Indeed, the Winona County Sheriff's Office sponsored a float during Winona Steamboat Days in June of 2023 where the float was streamed with a blue banner asking for "Justice for Maddi." Furthermore, there have been a number of fundraisers throughout Winona County and Fillmore County for Ms. Kingsbury and her family.

Finally, the high likelihood of an unfair trial in Winona given community involvement in the search for Madeline Kingsbury in looking at online community groups. One such group is a Facebook group organized on April 3, 2023, called "The Search for Maddi."⁴ The group was dedicated to search efforts in Winona and surrounding areas in the months before Ms. Kingsbury was found. The group has more than 2,000 members, and on April 19, 2023, another group was formed called "Finding Madeline Kingsbury."⁵ The "Finding Madeline Kingsbury" Facebook group also coordinated searches for Ms.

⁴ <https://www.facebook.com/groups/438900761772840/>.

⁵ <https://www.facebook.com/profile.php?id=100091790613142>.

Kingsbury and has more than 28,000 followers. Some posts related to searching for Ms. Kingsbury generated over 1,000 “likes” and the posts related to searching were targeted at residents of Winona, Fillmore, and Houston counties.

These actions by members of the community are understandable. But the Court is tasked at this point with being satisfied that a fair and impartial trial can be held in Winona County. The overwhelming evidence in this case suggests that this case is uniquely different than other cases that involve allegations of murder. The tremendous amount of prejudicial pre-trial publicity is certainly concerning but when combined with the community investment in this case it leads to the logical conclusion that the Court will not be able to secure a fair and impartial trial in Winona County. And accordingly the Defendant would ask that venue in this matter be changed.

This motion is based upon all files, records, and proceedings herein. This will include affidavits, testimony, written statements, and public opinion surveys to be submitted at a future date in advance of the hearing on March 20, 2024.

Respectfully Submitted,

MESHBESHER & SPENCE, LTD.

Dated: January 18, 2024

By: 

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