

State of Minnesota

District Court

County of HENNEPIN

OCT 24 2022

Judicial District:

FOURTH

Court File Number:

27-CR-20-12953

Case Type:

Criminal

STATE OF MINNESOTA

Plaintiff,

vs.

**Petition to Enter Plea of Guilty
in Felony Case Pursuant to Rule 15**

J Alexander Kueng

Defendant.

TO THE ABOVE-NAMED COURT

I, J. Alexander Kueng, Defendant in the above-entitled action, do respectfully represent and state as follows:

1. My full name is J Alexander Kueng. I am 29 years old; my date of birth is 10/08/1993. The last grade that I went through in school is Bachelor's Degree.
2. If filed in my case, I have received, read and discussed a copy of the (Indictment) (Complaint)
3. I understand the charge(s) made against me in this case.
4. Specifically, I understand that I have been charged with the crime(s) of Murder 2nd Degree, Manslaughter 2nd Degree committed on or about 05/25/2020 in Hennepin County, Minnesota.
5. I am represented by an attorney whose name is Thomas C. Plunkett and:
 - a. I feel that I have had sufficient time to discuss my case with my attorney.
 - b. I am satisfied that my attorney is fully informed as to the facts of this case.
 - c. My attorney has discussed possible defenses to the crime that I might have.
 - d. I am satisfied that my attorney has represented my interests and has fully advised me.
6. I ☐ ~~have~~ / ☐ have never been a patient in a mental hospital.
7. I ☐ ~~have~~ / ☐ have not talked with or been treated by a psychiatrist or other person for a nervous or mental condition.
8. I ☐ ~~have~~ / ☐ have not been ill recently.
9. I ☐ ~~have~~ / ☐ have not recently been taking pills or other medicines.
10. I ☐ ~~do~~ / ☐ do not make the claim that I was so drunk or so under the influence of drugs or medicine that I did not know what I was doing at the time of the crime.

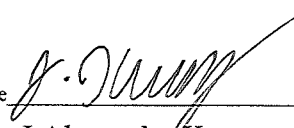
11. I ☐ ~~do~~ / ☐ do not make the claim that I was acting in self-defense or merely protecting myself or others at the time of the crime.
12. I ☐ ~~do~~ / ☐ do not make the claim that the fact I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial.
13. I ☐ was / ☐ ~~was not~~ represented by an attorney when I ☐ had a probable cause hearing. ☐ ~~I have not had a probable cause hearing~~
- a. ~~I know that I could now move that the complaint against me be dismissed for lack of probable cause and I know that if I do not make such a motion and go ahead with entering my plea of guilty, I waive all right to successfully object to the absence of a probable cause hearing.~~
- b. I also know that I waive all right to successfully object to any errors in the probable cause hearing when I enter my plea of guilty.
14. My attorney has told me and I understand:
- a. That the prosecutor for the case against me, has:
- physical evidence obtained as a result of searching for and seizing the evidence;
 - evidence in the form of statements, oral or written that I made to police or others regarding this crime;
 - evidence discovered as a result of my statements or as a result of the evidence seized in a search;
 - identification evidence from a line-up or photographic identification;
 - evidence the prosecution believes indicates that I committed one or more other crimes.
- b. That I have a right to a pre-trial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me if I went to trial in this case.
- c. That if I requested such a pre-trial hearing I could testify at the hearing if I wanted to, but my testimony could not be used as substantive evidence against me if I went to trial in this case.
- d. That I ☐ ~~do~~ / ☐ do not now request such a pre-trial hearing and I specifically ☐ do / ☐ ~~do not~~ now waive my right to have such a pre-trial hearing.
- e. That whether or not I have had such a hearing I will not be able to object tomorrow or any other time to the evidence that the prosecutor has.
15. I have been told by my attorney and I understand:
- That if I wish to plead not guilty, I am entitled to a trial by a jury on the issue of guilt, and all jurors would have to agree I was guilty before the jury could find me guilty.
 - That if I plead guilty, I will not have a trial by either a jury or by a judge without a jury.
 - That with knowledge of my right to a trial on the issue of guilt, I now waive my right to a trial.
16. I have been told by my attorney and I understand that if I wish to plead not guilty and have a trial by jury or trial by a judge, I would be presumed innocent until my guilt is proved beyond a reasonable doubt.
17. I have been told by my attorney and understand:
- That if I wish to plead not guilty and have a trial the prosecutor would be required to have the witnesses testify against me in open court in my presence and that I would have the right, through my attorney, to question these witnesses.

- b. That with knowledge of my right to have the prosecution's witnesses testify in open court in my presence and questioned by my attorney, I now waive this right.
18. I have been told by my attorney and I understand:
- a. That if I wish to plead not guilty and have a trial I would be entitled to require any witnesses that I think are favorable to me to appear and testify at trial.
- b. That with knowledge of my right to require favorable witnesses to appear and testify at trial I now waive this right.
19. I have been told by my attorney and I understand:
- a. That a person who has prior convictions or a prior conviction can be given a longer prison term because of this.
- b. That the maximum penalty that the court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for 40 years and 10 years in Prison years. That if a minimum sentence is required by statute the court may impose a sentence of imprisonment of not less than NONE months for this crime.
- ~~c. That for felony driving while impaired offenses and most sex offenses, a mandatory period of conditional release will follow any executed prison sentence that is imposed. Violating the terms of this conditional release may increase the time I serve in prison. In this case, the period of conditional release is NONE years.~~
- d. That a person who participates in a crime by intentionally aiding, advising, counseling and conspiring with another person or persons to commit a crime is just as guilty of that crime as the person or persons who are present and participating in the crime when it is actually committed.
- ~~e. That my present probation or parole could be revoked because of the plea of guilty to this crime.~~
- ~~f. That the prosecutor is seeking an aggravated sentence of NONE.~~
20. I have been told by my attorney and understand:
- a. That my attorney discussed this case with one of the prosecuting attorneys and that my attorney and the prosecuting attorney agreed that if I entered a plea of guilty, the prosecutor will do the following:
(Give substance of the agreement)
- Plead guilty Count 2, Second degree manslaughter, culpable negligence Dismiss Count 1, executed prison term of 42 months of which 2/3rds must be served concurrently with Federal sentence imposed in *U.S. v. Kueng*, 21-cr-108 (PAM/TNL) (3), no fine, restitution as determined by Court, facts to be submitted by written stipulation and attached as an addendum.
- b. That if the court does not approve this agreement:
- i. I have an absolute right to then withdraw my plea of guilty and have a trial.
- ii. Any testimony that I have given concerning the guilty plea could not be used against me unless I am charged with the crime of perjury based on this testimony.
21. That except for the agreement between my attorney and the prosecuting attorney:
- a. No one – including my attorney, any police officer, prosecutor, judge, or any other person - has made any promises to me, to any member of my family, to any of my friends or other persons, in order to obtain a plea of guilty from me.
- b. No one – including my attorney, any police officer, prosecutor or judge, or any other person – has threatened me, or any member of my family or my friends or other persons, in order to obtain a plea of guilty from me.

22. My attorney has told me and I understand that if my plea of guilty is for any reason not accepted by the court, or if I withdraw the plea with the court's approval, or if the plea is withdrawn by court order on appeal or other review:
- a. I would then stand trial on the original charge Murder 2nd Degree, Manslaughter 2nd degree
 - b. The prosecution could proceed against me just as if there had been no plea of guilty and no plea agreement.
23. My attorney has told me and I understand that if my plea of guilty is accepted by the judge I have the right to appeal, but that any appeal or other court action I may take claiming error in the proceedings probably would be useless and a waste of my time and the court's.
24. My attorney has told me and I understand that a judge will not accept a plea of guilty for anyone who claims to be innocent.
25. I now make no claim that I am innocent.
26. I have been told by my attorney and I understand that if I wish to plead not guilty and have a jury trial:
- a. That I could testify at trial if I wanted to but I could not be forced to testify.
 - b. That if I decided not to testify neither the prosecutor nor the judge could comment on my failure to testify.
 - c. That with knowledge of my right not to testify and that neither the judge nor the prosecutor could comment on my failure to testify at trial I now waive (give up) this right and I will tell the judge the facts of the crime.
27. My attorney has told me and I understand that if I am not a citizen of the United States this plea of guilty may result in deportation, exclusion from admission to the United States of America or denial of citizenship.
28. That in view of all above facts and considerations I wish to enter a plea of guilty.

Dated: October 23, 2022

Signature


Name: J Alexander Kueng
Street Address: FCI - Elkton
City/State/Zip: Lisbon, OH

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ADDENDUM

The defendant agrees that he is guilty of Count 2 as charged and swears that the following facts are true: On or about May 25, 2020, at approximately 8:08 pm, J. Alexander Kueng ("defendant"), was working as a licensed police officer for the Minneapolis Police Department. Defendant and other officers responded to a call involving a customer, later identified as George Perry Floyd Jr., allegedly passing a counterfeit \$20 bill at the Cup Foods store located in the area of 38th Street and Chicago Avenue in Minneapolis, Hennepin County, Minnesota. Defendant and other officers encountered Mr. Floyd, handcuffed him and eventually restrained him in the prone position on the asphalt pavement with his stomach facing the ground and officers applying pressure to his neck, back, and legs for approximately 9 minutes and 29 seconds. The defendant knowingly and intentionally assisted in restraining Mr. Floyd by holding his torso.

Restraining a handcuffed person in the prone position in this manner poses a serious risk of death due to positional asphyxia. This is a known risk in the law enforcement profession and the defendant was conscious and aware of this risk based on his experience and training. The defendant had specific knowledge of the risk to Mr. Floyd because he perceived Mr. Floyd being restrained prone on the ground and was able to hear Mr. Floyd repeat that he could not breathe numerous times during the restraint. The defendant was also aware that Mr. Floyd fell silent as the restraint continued, eventually did not have a pulse, and appeared to have lost consciousness. The defendant was then specifically aware that then-Officer Chauvin was restraining Mr. Floyd by placing his knee on Mr. Floyd's neck and upper back area, and that then-Officer Lane was restraining Mr. Floyd's legs. At the time of the restraint, the defendant knew from his training that the officers should have placed Mr. Floyd in the side-recovery position to facilitate

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breathing. The defendant nonetheless continued to intentionally assist in the restraint, creating and consciously taking an unreasonable risk of causing death, and in fact caused the death of George Floyd.

The defendant agrees that the restraint of Mr. Floyd was unreasonable under the circumstances and constituted an unlawful use of force that is not authorized by Minnesota law.

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