FILED
April 9, 2020
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

CONTINUING OPERATIONS OF THE MINNESOTA JUDICIAL BRANCH UNDER EMERGENCY EXECUTIVE ORDER NO. 20-33

O R D E R

In Emergency Executive Order No. 20-33, the Governor of the State of Minnesota extended the stay-at-home directive and limits on activities. Emergency Exec. Order No. 20-33, at 2 (Apr. 8, 2020). As with Emergency Executive Order No. 20-20, the Emergency Executive Order of April 8, 2020 identifies the Minnesota Judicial Branch as a "Critical Sector" of state government and exempts members of the Judicial Branch, as designated by the Chief Justice, from the stay-at-home directive. Emergency Exec. Order No. 20-33, at 10, ¶ 6(s). The operations of the Judicial Branch during the emergency declared as a result of the COVID-19 pandemic have been governed by the supreme court's orders filed on March 20, 2020, as amended by the orders of March 23, 2020, and March 26, 2020. *See Continuing Operations of the Courts of the State of Minnesota Under Emergency Executive Order 20-20*, No. ADM20-8001 (Minn. filed Mar. 26, 2020); *Continuing Operations of the Courts of the State of Minnesota Under a Statewide Peacetime Declaration of Emergency*, No. ADM20-8001 (Minn. filed Mar. 23, 2020); *Continuing Operations of the Courts of the State of Minnesota Under a Statewide Peacetime Declaration of Emergency*, No. ADM20-8001 (Minn. filed Mar. 20, 2020). This Order is issued in response to

Emergency Executive Order No. 20-33, and to provide direction for the continuing operations of the Judicial Branch's district and appellate courts.

IT IS HEREBY ORDERED THAT:

A. Case Proceedings: appellate courts.

1. Proceedings in appeals pending before the Minnesota Court of Appeals and the Minnesota Supreme Court shall continue as scheduled by those courts. The appellate courts are authorized to grant reasonable extensions of the deadlines established by court rule to initiate an appeal or a request for review, up to a maximum of 30 days, notwithstanding Rule 126.02 of the Rules of Civil Appellate Procedure, and until further order of this court. The Clerk of the Appellate Courts is authorized to grant extensions of time to the district court for transmission of the physical exhibits that are part of the record on appeal, *see* Minn. R. Civ. App. P. 111.01. Effective immediately, the provisions in the Rules of Criminal Procedure and the Rules of Civil Appellate Procedure that allow a party to request a paper copy of a transcript prepared for an appeal are suspended until further order of this court. *See* Minn. R. Crim. P. 28.02, subd. 9(a); Minn. R. Civ. App. P. 110.02, subd. 2(b). Court reporters shall deliver an electronic copy of the transcript and shall not prepare or deliver a paper copy of the transcript for an appeal, to the extent that such paper transcript has not been delivered as of the date of this order.

2. Civil commitment proceedings that are before the Commitment Appeal Panel established under Minn. Stat. § 253B.19, subd. 1 (2018), shall continue as scheduled by the panel. The panel is authorized to conduct any proceedings or hearings by Interactive Video Teleconference (ITV) or other remote technology to the extent possible. Rule 14 of

the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act remains suspended for purposes of these proceedings.

3. The Office of Lawyers Professional Responsibility shall continue to conduct the business of the office consistent with the sound discretion of the Director and the Rules on Lawyers Professional Responsibility (RLPR). The Director is authorized to use remote technology or other distancing measures to the extent feasible and as needed to continue the operations of the office and for proceedings held under the Rules on Lawyers Professional Responsibility. Public access to the office is subject to limits imposed by the Director. Referees appointed by this court to conduct public hearings are authorized to conduct those hearings remotely, if necessary and appropriate to do so, and until further order of this court. The Director is authorized to suspend the scheduling of panel hearings under Rules 9 and 18, RLPR, until May 4, 2020, or until further order of this court, whichever occurs first.

B. Case Proceedings: district courts.

4. No jury trials shall commence before May 4, 2020 or until further order of this court, whichever occurs first.

5. Other than for grand juries that were empaneled as of March 23, 2020 and taking evidence on a case, no grand jury proceedings shall commence before May 4, 2020 or until further order of this court, whichever occurs first.

6. Other than the proceedings in paragraphs 7–11 below that require a courtroom hearing, all proceedings in all case types shall be held by ITV or any other remote technology that permits the parties and attorneys to appear without being in the

courtroom or by review of the parties' submissions without oral argument, to the extent feasible, practicable, and in the interests of justice. The district courts are authorized and encouraged to use remote technology when possible to conduct hearings or proceedings in any pending cases in addition to the hearings and proceedings set forth in paragraphs 7–11 below. Rule 1.05 of the Rules of Criminal Procedure and Rule 14 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act remain suspended until further order of this court, to facilitate the use of ITV and video or telephone conferencing.

7. In adult criminal matters in which the defendant is in custody, the following hearings shall continue to be held in the courtroom: bail review; hearings under Rule 8 of the Rules of Criminal Procedure; omnibus hearings that do not require live testimony; plea hearings; sentencing hearings; and probation revocation hearings if any necessary testimony can be provided remotely. The defendant and the attorneys may appear remotely. Victim impact information may be provided remotely. Unless they can be conducted remotely or by review of the parties' submissions, all other proceedings in adult criminal matters are suspended until May 4, 2020 or until further order of this court, whichever occurs first.

8. In juvenile proceedings governed by the Rules of Juvenile Delinquency Procedure and for which the juvenile is in custody, the following hearings shall continue to be held in the courtroom, as long as any necessary testimony can be provided remotely: detention review; omnibus hearings; plea hearings; certification hearings; extended juvenile jurisdiction hearings; disposition hearings; court trials; and probation revocation

hearings. The juvenile and the attorneys may appear remotely. Unless they can be conducted remotely or by review of the parties' submissions, all other proceedings in juvenile criminal matters are suspended until May 4, 2020 or until further order of this court, whichever occurs first.

9. In juvenile protection proceedings governed by the Rules of Juvenile Protection Procedure, hearings shall continue to be held in the courtroom for emergency protective care (EPC) for children in placement. The EPC hearing shall be combined with an admit/deny hearing if possible. Attendance in the courtroom shall be limited to parties and parent-participants, and their attorneys. All other proceedings in juvenile protection matters can be held remotely or will be conducted based on the presiding judge's review of the parties' written submissions, as determined by the presiding judge. The provisions of this paragraph remain in effect until May 4, 2020 or until further order of this court, whichever occurs first.

10. Hearings shall be held in the courtroom on an emergency basis in the following case types: housing/eviction matters when there is a showing of individual or public health or safety at risk, which includes eviction actions alleging a violation of Minnesota Statutes § 504B.171, subd. 1 (2018); civil commitment; emergency change-of-custody requests; and guardianship. The parties and the attorneys may appear remotely.

11. Hearings shall be conducted in the courtroom for any case type in which the request for relief presents an immediate liberty concern, when public or personal safety concerns are paramount, and for garnishment exemption hearings requested under Minn. Stat. § 571.914, subd. 1 (2018). The parties and the attorneys may appear remotely.

C. Court Facilities, Public Access, and Court Administration.

12. Courtrooms remain open for business on a limited basis, with access to court facilities subject to conditions imposed by county officials. The clerk's counter in the court facility and self-help services and facilities will be limited to electronic and telephone services until further order of this court. Emergency contact e-mail information is located on the Judicial Branch's website for each county court facility, and court staff shall consistently monitor those e-mail accounts. The State Law Library is closed to the public until May 4, 2020 or until further order of this court, whichever occurs first.

13. The district and appellate courts will continue to accept filings in all case types. Filings and submissions must be made electronically if the filer is required by court rule or an existing court order to use the judicial branch's electronic case filing systems for either the appellate courts or the district courts. Unless required to file through an electronic case filing system, parties may submit filings by e-mail as directed by court administration, by mail, in a drop box designated for court filings if available, or by other means provided by court administration, if any. The State Court Administrator is authorized to implement and publish procedures for the payment of fees that are required for documents filed other than through the electronic case filing system or by U.S. mail. Other than at facilities where access is necessary to access drop-box or other available filing means, the parties and the public will not be permitted access to the court facility to submit documents for filing.

14. Other than as set forth in paragraph 15 below, for any proceedings or hearings conducted in the courtroom on or after the date of this order, access to the courtroom will

be limited to the parties in the case who are participating in the hearing, attorneys who represent those parties, any necessary court staff, and other individuals designated by the presiding judge as necessary to the hearing. All proceedings and hearings conducted using remote technology, by ITV, by telephone, or by other remote means are to be conducted in the same manner as an in-person hearing and are governed by the applicable rules of procedure. All proceedings and hearings remain subject to the Judicial Branch's rules that limit or prohibit recordings of hearings. Other than as provided by paragraph 15 of this order, no person attending a proceeding or hearing may record the proceeding or hearing. The only recording permitted is the official recording created by the court.

15. Representatives of the media are permitted to attend hearings held in courtrooms and to record those hearings as permitted by court rules, but otherwise do not have access to judicial branch facilities and services, including public access terminals. Unless waived by the presiding judge or a representative of the Court Information Office, requests by media representatives to attend any hearing other than in Hennepin County District Court must be coordinated through the Judicial Branch Court Information Office at least 24 hours before the scheduled time of the hearing. Media requesting attendance at court hearings in Hennepin County must coordinate with the Hennepin County District Court Information Officer. It is the intention of this order that judges and court administration may limit the number of persons in attendance at hearings, including the number of media representatives, in a manner that is consistent with guidelines issued by public health officials for public gatherings.

16. Effective as of the date of this order, the State Court Administrator is authorized to extend the time to respond to payable citations for an additional 60 days, to extend the time to pay fines and fees due to the court for an additional 60 days, to suspend penalties for failure to appear and late payments, and to suspend or modify Judicial Branch policies that implement payable citations.

17. The hearings and proceedings authorized by paragraphs 1–2, 5, and 7–11 of this order are necessary to ensure the continued operations of Minnesota's court system for the duration of the stay-at-home directive continued by Emergency Executive Order No. 20-33. The judicial officers who preside over those hearings and proceedings are therefore exempt from that directive. Judicial Branch employees who are designated by managers or supervisors to be present for those hearings or proceedings held in the courtroom are also exempt from that directive. The hearings and proceedings authorized by paragraphs 1–2, 5, and 7–11 of this order are "essential legal services" for purposes of Emergency Executive Order No. 20-33. *See* Exec. Order at 12, ¶ 6(ee).

18. The designations of administrative personnel as necessary to ensure the continued operations of Minnesota's court system, made under paragraph 2 of the order of March 26, 2020, by the Chief Justice of the Minnesota Supreme Court, the Chief Judge of the Minnesota Court of Appeals, the Chief Judges of each judicial district, and the State Court Administrator, remain in effect until further order of the court. The individual employees so designated, or any substitutions in those designations that are authorized by the officeholder named in this paragraph, are exempt from the stay-at-home directive.

19. Courtrooms and court staff that have access to virtual courtroom technology shall use and deploy that technology as directed by the presiding judge. Court staff shall continue to process cases and case filings as required by judicial branch policies, regardless of whether the employee works at the court facility or remotely. To facilitate the provisions of this order, the continued operations of the Judicial Branch during the stay-at-home directive, and the Judicial Branch's commitment to the delivery of justice, the State Court Administrator is authorized to implement temporary modifications to Judicial Branch policies and procedures that support the processing of cases pending in the district courts. The State Court Administrator's authority under this paragraph includes temporary adjustments to work assignments based on need and availability of judicial branch personnel.

20. This order is effective as of the date filed and, except as provided in paragraph 18 of this order, supersedes the order of March 20, 2020, as amended by the orders of March 23, 2020 and March 26, 2020.

Dated: April 9, 2020

BY THE COURT:

Lorie S. Gildea
Chief Justice