STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

FILED

May 15, 2020

OFFICE OF APPELLATE COURTS

ORDER GOVERNING THE OPERATIONS OF THE MINNESOTA JUDICIAL BRANCH UNDER EMERGENCY EXECUTIVE ORDER NOS. 20-53, 20-56

O R D E R

In Executive Order No. 20-53, the Governor of the State of Minnesota extended the statewide peacetime emergency first declared on March 13, 2020. Emergency Exec. Order No. 20-53 (May 13, 2020). In a separate order, Executive Order No. 20-56, the Governor rescinded the stay-at-home directive announced in Executive Order No. 20-48. Executive Order No. 56 also allows individuals to leave their homes or gather for some activities, and permits certain non-critical businesses to re-open where guidance from the Minnesota Department of Health (MDH) can be implemented and followed.

The operations of the Judicial Branch are currently governed by the order filed on May 1, 2020. *See Continuing Operations of the Minnesota Judicial Branch Under Emergency Executive Order No. 20-33*, No. ADM20-8001 (Minn. filed May 1, 2020). The Judicial Branch is exempt from the limits on gatherings imposed by Executive Order No. 20-56, and proceedings held by the Judicial Branch are subject to policies established by the chief justice and will occur as directed by court order. Exec. Order No. 20-56, at ¶ 6(c)(ii).

The Judicial Council has determined that the Judicial Branch is now in a transitional phase, and has approved strategies for this phase that will allow a planned, methodical, and gradual approach in extending the number and type of in-person proceedings held in court

facilities. In light of the updated guidance provided by the executive orders and MDH, and in order to facilitate the transition of the operations of the Judicial Branch consistent with that guidance, the continuing operations of the Minnesota Judicial Branch shall proceed as follows.

IT IS HEREBY ORDERED THAT:

A. Case proceedings: district courts.

1. Judges and court staff shall continue to process cases, in all case types, regardless of whether the judge or employee works at the court facility or remotely. Courtrooms and court staff that have access to virtual courtroom technology shall use and deploy that technology as directed by the presiding judge.

2. Effective May 18, 2020, judges and court staff shall implement the transitional case strategies approved by the Judicial Council for proceedings pending in the district court (Civil Criminal Juvenile Probate) (collectively, Transitional Case Strategies). In implementing those strategies, district courts must adhere to the guidelines and exposure precaution measures in the Judicial Branch COVID-19 Preparedness Plan approved by the Judicial Council (Preparedness Plan). The Transitional Case Strategies and Preparedness Plan are available on the Judicial Branch website or from the Court Information Office.

3. As reflected in the Transitional Case Strategies for criminal cases, the Judicial Council has authorized a pilot program for criminal jury trials. Those pilot jury trials may proceed on or after June 1, 2020, in the counties approved to participate in the pilot program, and after the participating district court has submitted a jury trial pilot plan and secured the approval of the Judicial Council or its designee to proceed. No other jury

trials shall be held in criminal cases before July 6, 2020, and no jury trials shall be held in civil cases before September 1, 2020.

4. Other than for grand juries that were empaneled as of March 23, 2020 and taking evidence on a case, district courts shall not call grand jurors for service until the court has submitted a grand jury pilot plan and secured the approval of the Judicial Council or its designee to proceed.

5. Other than for an in-person proceeding held as authorized by the Transitional Case Strategies, proceedings in the district courts in all case types shall continue to be held by Interactive Video Teleconference (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. 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.

B. Case proceedings: appellate courts.

6. Proceedings in appeals pending before the Minnesota Court of Appeals and the Minnesota Supreme Court shall continue as scheduled by those courts, and in-person hearings held before those courts must be conducted consistent with the Preparedness Plan. 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 extend the date for the district court to transmit physical exhibits that are part of the record on appeal,

see Minn. R. Civ. App. P. 111.01, by up to 60 days and until further order of this court. Effective May 18, 2020, 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, *see* Minn. R. Crim. P. 28.02, subd. 9(a); Minn. R. Civ. App. P. 110.02, subd. 2(b), are reinstated. Court reporters are not required to deliver paper copies of transcripts that were electronically delivered on or before the date of this order, unless the requesting attorney or party has paid for, but not yet received, a paper copy of that transcript.

7. 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 ITV or other remote technology to the extent possible. If an examiner is appointed to prepare a report for a proceeding before the panel, the Clerk of the Appellate Courts will hold a pre-hearing scheduling conference within 10 days after the examiner's final report is filed. No hearing on the petition will be scheduled before the examiner's report is filed. Rule 14 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act remains suspended for purposes of these proceedings.

8. 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 to continue the operations of the office and for proceedings held under the Rules on Lawyers Professional Responsibility, including panel hearings under Rules 9 and 18, RLPR. 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. In-person hearings before the referees or a panel shall comply with the Preparedness Plan.

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

9. Access to court facilities may be subject to conditions imposed by government entities that own the buildings that house court facilities. Services available at the court public service counter or clerk's office in the court facility will be limited to persons who are at the facility to attend an in-person proceeding scheduled by a judicial branch district or appellate court. All other services, including self-help services, will be provided electronically or by telephone until further order of this court. Other than persons who require access to a facility to attend a scheduled proceeding or to access an available drop box, access to court facilities, including public access terminals, is not permitted until further order of this court.

10. Unless required to file through an electronic case filing system, parties shall continue to use U.S. mail or fax for filings; and may use a drop box designated by court administration for in-person filings, if available, or other means provided by court administration, if any, such as e-mail. Procedures established to pay fees that are required for documents filed other than through the electronic case filing system or by U.S. mail remain in effect until further order of the court.

11. To ensure compliance with the Preparedness Plan, 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, media representatives as set forth in paragraph 12, 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 12 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.

12. Representatives of the media are permitted to attend hearings held in courtrooms and to record those hearings as permitted by court rules. The presiding judge may require media representatives to attend remotely, rather than in the courtroom, in order to maintain compliance with the Preparedness Plan. 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.

13. The State Court Administrator has the authority 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 for late payments, and to suspend or modify Judicial Branch policies that implement payable citations.

14. Effective May 18, 2020, district chief judges, the Chief Judge of the Court of Appeals, the Chief Justice of the Supreme Court, the State Court Administrator, and district

administrators shall direct judges and employees for their respective courts and offices to return to work at the court or other Judicial Branch facility on a gradual basis, to support in-person, remote, and other work as provided in the Transitional Case Strategies and consistent with the Preparedness Plan. Judges and employees so directed are exempt from the directive in paragraph 7(c) of Executive Order No. 20-56 to work from home.

15. To facilitate the provisions of this order, the continued operations of the Judicial Branch during the peacetime emergency, 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 the authority to temporarily adjust work assignments based on need and availability of judicial branch personnel.

16. The State Law Library will not re-open before June 1, 2020. The State Law Librarian shall work with the State Court Administrator to implement services, hours, and in-person patron limits that comply with the Preparedness Plan.

17. This order supersedes the order of May 1, 2020.

Dated: May 15, 2020

BY THE COURT:

Lorie S. Gildea
Chief Justice