FILED
May 1, 2020
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

ORDER GOVERNING THE CONTINUING OPERATIONS OF THE MINNESOTA JUDICIAL BRANCH UNDER EMERGENCY EXECUTIVE ORDER NO. 20-48

O R D E R

In Emergency Executive Order No. 20-48, the Governor of the State of Minnesota extended the stay-at-home directive and limits on activities through May 17, 2020. Emergency Exec. Order No. 20-48, at 3 (Apr. 30, 2020). As with previous executive orders issued during the current public-health emergency, the Minnesota Judicial Branch is a "Critical Sector" of state government, which exempts members of the Judicial Branch, as designated by the Chief Justice, from the stay-at-home directive. Emergency Exec. Order No. 20-48, at 13, ¶ 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 order filed on April 9, 2020. *See Continuing Operations of the Minnesota Judicial Branch Under Emergency Executive Order No. 20-33*, No. ADM20-8001 (Minn. filed Apr. 9, 2020).

In light of the updated stay-at-home directive, and in order to continue operations of the Judicial Branch consistent with current public-health 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. No jury trials shall commence before June 1, 2020. The Judicial Council has approved the use of a pilot program to evaluate processes for jury trials in criminal cases. Those pilots will not start before June 1, 2020.

3. 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 June 1, 2020.

4. Other than the proceedings in paragraphs 5–9 below where a courtroom hearing is authorized, 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. The district courts are authorized to and should 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 5–9 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.

5. In adult criminal matters in which the defendant is in custody, the following hearings may 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 proceedings referenced in this paragraph may also be conducted remotely if the defendant and the attorneys are able to appear remotely. Victim impact information may be provided remotely. Unless they can be conducted remotely or based on the presiding judge's review of the parties' written submissions, all other proceedings in adult criminal matters are suspended until May 18, 2020.

6. In juvenile proceedings governed by the Rules of Juvenile Delinquency Procedure and for which the juvenile is in custody, the following hearings may 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 proceedings referenced in this paragraph may also be conducted remotely if the juvenile and the attorneys are able to appear remotely. Unless they can be conducted remotely or based on the presiding judge's review of the parties' written submissions, all other proceedings in juvenile criminal matters are suspended until May 18, 2020.

7. In juvenile protection proceedings governed by the Rules of Juvenile Protection Procedure, hearings may 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. EPC hearings may also be held remotely if the parties, parent-participants, and the attorneys are able to appear remotely. 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 18, 2020.

8. Hearings may 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 proceedings referenced in this paragraph may also be conducted remotely if the parties and the attorneys are able to appear remotely.

9. Hearings may 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 proceedings referenced in this paragraph may also be conducted remotely if the parties and the attorneys are able to appear remotely.

B. Case Proceedings: appellate courts.

10. 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. 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 a transcript for an appeal, to the extent that such paper transcript has not been delivered as of the date of this order.

11. 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. 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.

12. 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, 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.

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

13. 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.

14. The district and appellate courts shall 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 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. 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.

15. Other than as set forth in paragraph 16 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 16 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.

16. 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.

17. The State Court Administrator continues to have 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 late payments, and to suspend or modify Judicial Branch policies that implement payable citations.

18. The hearings, proceedings, and case processing authorized by paragraphs 1, 3, and 5–12 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. 20-48. 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 hearings or proceedings held in the courtroom, or to process cases or case documents for those hearings or proceedings, are also exempt from that directive. The hearings and proceedings authorized by paragraphs 1, 3, and 5–12 of this order are "essential legal services" for purposes of Emergency Executive Order No. 20-48. *See* Exec. Order at 15, ¶ 6(ee).

19. 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.

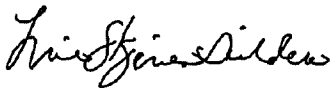
20. To facilitate the provisions of this order, the continued operations of the Judicial Branch during the stay-at-home directive, and the Judicial Branch's commitment to the delivery of justice, the State Court Administrator is authorized to implement temporary modifications to Judicial Branch policies 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.

21. The State Law Library shall re-open to the public on May 18, 2020. The State Law Librarian shall work with the State Court Administrator to implement services, hours, and in-person patron limits that are consistent with current guidance from the Minnesota Department of Health for government services that include in-person contact.

22. This order is effective as of the date filed and except as provided in paragraph 19 of this order, supersedes the order of April 9, 2020.

Dated: May 1, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice