FILED
January 21, 2021
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

ORDER GOVERNING THE CONTINUING OPERATIONS OF THE MINNESOTA JUDICIAL BRANCH

O R D E R

The peacetime emergency first declared by the Governor of the State of Minnesota on March 13, 2020, due to the COVID-19 pandemic has been extended and continues as of the date of this order. On January 6, 2021, the Governor removed or modified some restrictions on certain gatherings and activities that were put in place in November 2020. *See* Emergency Exec. Order No. 21-01 (Jan. 6, 2021). The Minnesota Judicial Branch is exempt from the limits on gatherings that are imposed in the Governor's executive orders and proceedings held by the Judicial Branch are governed by policies established by the Chief Justice and court order. *Id.* at 6.

The operations of the Judicial Branch have been governed by the order filed on November 20, 2020. *See Order Governing the Continuing Operations of the Minnesota Judicial Branch*, No. ADM20-8001 (Minn. filed Nov. 20, 2020). The Judicial Branch has also adopted requirements for face coverings in court facilities, *Order Requiring Face Coverings at Court Facilities*, No. ADM20-8001 (Minn. filed July 7, 2020), and has implemented exposure control measures at court facilities and other locations at which judicial branch proceedings are held, consistent with public health guidance.

In order to continue the operations of the Judicial Branch consistent with public health guidance as pandemic conditions evolve, the following directions will govern through March 14, 2021.

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. Other than proceedings held in person in a courtroom as authorized by paragraphs 2 through 4 of this order, all proceedings in all case types, including proceedings in treatment courts, shall be held by 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. Interpreters shall appear remotely if the technology is available to do so, even if the parties and attorneys appear in person.

2. Jury trials in progress shall proceed to completion. No new jury trials will commence before March 15, 2021, except as stated herein. For criminal jury trials, the chief judge in the district where the trial is to be held may grant an exception for a criminal jury trial to be held in person. Exceptions shall be granted for criminal cases where the defendant has made a speedy trial demand, the defendant is in custody, and the defendant is charged with either a felony crime or a non-felony crime against a person, unless the chief judge determines that the trial cannot proceed safely due to local conditions. For civil jury trials, the chief judge in the district where the trial is to be held, after consultation with the Chief Justice, may grant a request for the civil jury trial to be held in person. As an

alternative to an in-person civil jury trial, civil jury trials may proceed remotely if the presiding judge and the parties agree.

3. Grand juries that were empaneled and taking evidence on a case as of the date of this order shall continue to completion. No new grand juries will be impaneled nor will grand jury proceedings commence before March 15, 2021, unless the chief judge in the district in which the grand jury is to be summoned, after consultation with the Chief Justice, has granted an exception for grand jury proceedings.

4. All other proceedings in the district court, other than those proceedings subject to paragraphs 2 and 3 of this order, shall be conducted remotely unless the chief judge of the district in which the proceeding is to be held grants an exception for an in-person proceeding. Chief judges must report each exception granted under paragraphs 2 to 4 of this order to the State Court Administrator on a weekly basis or on such other schedule as the State Court Administrator may set. Rules of procedure that prohibit holding court proceedings remotely or that constrain the use of remote technology to conduct court proceedings, specifically Minn. R. Crim. P. 1.05, Minn. Gen. R. Prac. 131, Minn. Gen. R. Prac. 309.02, Minn. Gen. R. Prac. 359.03, Minn. R. Juv. Prot. P. 11.03, Minn. R. Adoption. P. 12.03, Minn. Spec. R. Commit. P. 14, are suspended to the extent that those rules contradict the terms of this paragraph until further order of this court.

B. Case Proceedings: appellate courts.

5. Proceedings in appeals pending before the Minnesota Court of Appeals and the Minnesota Supreme Court shall continue as scheduled by those courts.

6. Civil commitment proceedings that are before the Commitment Appeal Panel established under Minn. Stat. § 253B.19, subd. 1 (2020), shall continue as scheduled by the panel. The panel is authorized to conduct any proceedings or hearings by 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.

7. The Office of Lawyers Professional Responsibility and the Board of Law Examiners shall continue to conduct the business of those offices consistent with the sound discretion of the Directors of those offices and the rules that govern the work and proceedings of those offices. The Director of the Office of Lawyers Professional Responsibility 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. Referees appointed by this court to conduct public hearings shall conduct those hearings remotely, unless an exception is approved by the Chief Justice. The Director of the Board of Law Examiners, in consultation with and as directed by the Minnesota Supreme Court and consistent with guidance from public health officials, shall administer the bar examination scheduled for February 23–24, 2021.

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

8. The courts remain open for business on a limited basis, with access to court facilities subject to conditions imposed by county officials. The order of July 7, 2020, requiring face coverings in court facilities, remains in effect in all court facilities.

9. At least one public service counter in each county and the public service counter for the appellate courts must be accessible to court customers between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding court holidays). At the discretion of the chief judge and the district administrator for the district courts, and the clerk of appellate courts for that office, and after consultation with the State Court Administrator, access to counter services may be provided remotely, by appointment, or in person. Self-help services and facilities shall continue to provide services by appointment, remotely, or by telephone.

10. The district and appellate courts shall continue to accept filings in all case types. Unless required by court rule to file through an electronic case filing system, parties shall use U.S. mail, or in the district court, fax, to submit filings; may use a drop box designated by court administration for in-person filings, if available; and if use is authorized by court administration, may submit filings by 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.

11. For in-person proceedings, access to the courtroom is limited to the parties in the case who are participating in the proceeding, attorneys who represent those parties,

any necessary court staff, and other individuals designated by the presiding judge as necessary to the proceeding. All proceedings 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 proceeding and are governed by the applicable rules of procedure. All proceedings remain subject to the Judicial Branch's rules that limit or prohibit recordings of proceedings. Other than as provided by paragraph 12 of this order, no person attending a proceeding 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 in-person proceedings held in courtrooms and to record those proceedings 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 proceeding, including proceedings held remotely and 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 proceeding. Media requesting attendance at proceedings in Hennepin County must coordinate with the Hennepin County District Court Information Officer. No recording or broadcasting of any proceeding, whether held in person or remotely, is authorized other than as provided by court rules. It is the intention of this order that judges and court administration may limit the number of persons in attendance at proceedings, including the number of media representatives, in a manner that is consistent with the Judicial Branch's COVID-19 Preparedness Plan.

13. 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, including temporary adjustments to work assignments based on need and availability of Judicial Branch personnel. Judicial Branch employees shall work at the facility or remotely, as directed by the employee's supervisor.

14. Access to the State Law Library shall be as established by the State Law Librarian in consultation with the State Court Administrator.

15. This order is effective February 1, 2021, will be in effect until further order of this court, and to the extent that this order is inconsistent with any previous order governing the operations of the Judicial Branch, the provisions of this order control.

Dated: January 21, 2021

BY THE COURT:

Lorie S. Gildea
Chief Justice