

STATE OF MINNESOTA
COUNTY OF RAMSEY

FILED
Court Administrator

JUN 17 2011

By JRA Deputy

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: Civil

In Re Temporary Funding of Core
Functions of the Judicial Branch of
the State of Minnesota

Court File No. 02CV-11-5361

PETITION

Petitioners Minnesota Judicial Council and Attorney General Lori Swanson petition the Court as follows:

PARTIES

1. The Minnesota Judicial Council is the administrative policy-making authority for the Minnesota Judicial Branch. The purpose of the Council is to govern the Judicial Branch through the establishment and monitoring of administrative policies designed to achieve an accessible, fair and, timely system of justice statewide, and to ensure that the Judicial Branch functions as an independent and accountable branch of government.

2. Lori Swanson is the Attorney General of the State of Minnesota. The Attorney General has the authority under the Minnesota Constitution, Minnesota Statutes and Minnesota common law to represent the State and its interests in all matters before the Court. The Attorney General also represents the people of the State in a *parens patriae* capacity.

3. Article VI, section 1 of the Minnesota Constitution vests the judicial authority of the State of Minnesota in a supreme court, a court of appeals, and a district court. The supreme court has appellate jurisdiction in all cases and original jurisdictions in certain cases. Minn. Const. Art. VI, § 2. The court of appeals has “appellate jurisdiction over all courts, except the supreme court, and other appellate jurisdiction as prescribed by law.” *Id.* District courts have

“original jurisdiction in all civil and criminal cases and [has] appellate jurisdiction as prescribed by law.” *Id.* art. VI, § 3.

4. Jurisdiction in this action is based upon Minn. Stat. § 484.01 (2010). Venue is appropriate in this district under Minn. Stat. § 542.01.

FACTUAL AND PROCEDURAL BACKGROUND

5. Article XI, section 1 of the Minnesota Constitution provides that “No money shall be paid out of the treasury of this State except in pursuance of an appropriation by law.” The State has not enacted a state budget for the fiscal year beginning July 1, 2011.

6. The judicial branch of the State is constitutionally required to perform services that cannot be abridged by the legislative and executive branches. Some of these functions are identified in the Minnesota Constitution; others are identified in the United States Constitution.

7. STATE CONSTITUTION: Core Functions of the Judicial Branch: The Minnesota Constitution imposes a variety of functions upon the judicial branch that may not be abridged by the legislative and executive branches. *See State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986). The judiciary is empowered to hear all legal actions, civil or criminal. The judiciary is ultimately responsible for ensuring the rights of Minnesota citizens under the Bill of Rights in the State Constitution, Article I, and ensuring that other provisions of the Constitution are followed. The criminal courts are responsible for ensuring the rights of criminal defendants. *See* Minn. Const. Art. I, §§ 4-7 & 10-12. The civil courts are responsible for ensuring that each Minnesota citizen receives “a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.” Minn. Const. Art. I, § 8.

8. U.S. CONSTITUTION: Core Functions of the Judicial Branch: In addition, the Fourteenth Amendment of the United States Constitution mandates that “no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.” The judicial branch is ultimately responsible for ensuring that the State complies with this amendment. The judicial branch is also responsible for guaranteeing that the State ensures the rights of criminal defendants under the United States Constitution, Amendments IV-VII, and the other rights of citizens under the Bill of Rights of the United States Constitution. *See, e.g.*, Amendment I (guaranteeing freedom of speech, of the press, of religion, of the right of assembly, and the right to petition the government for redress of grievances).

9. In 2001, the Court directed that funding be maintained for the judicial branch. *See In Re Temporary Funding of Core Functions of the Judicial Branch of the State of Minnesota*, No. C6-01-5911, Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding (Ramsey Cty. Dist. Ct., June 29, 2001), attached hereto as Exhibit 1.

10. A failure to approve the expenditure of funds by the judiciary as of July 1, 2011 will have severe adverse consequences for the State and its citizens.

11. A failure to provide appropriations for the operations of the judiciary violates the separation of powers set forth in the Minnesota Constitution by preventing the judiciary from carrying out its constitutional obligations. The judiciary has authority on its own to order the other departments of government to provide sufficient resources for the judiciary to function. *See Clerk of Court’s Compensation for Lyon County v. Lyon County Comm’rs*, 241 N.W.2d 781

(Minn. 1976). This authority should be exercised by this Court in ordering sufficient funds for the judiciary to carry out its functions.

12. The Commissioner of the Department of Management and Budget administers the payment of obligations of the State.

13. The State treasury contains ample funds to continue the operation of the judicial branch after June 30, 2011. Indeed, the legislative and executive branches have already agreed as to the amount that should be appropriated for the Supreme Court, Court of Appeals and trial courts in Minnesota for FY 12-13.

Wherefore, Petitioners seeks the following relief:

1) A conclusion that, pursuant to the separation of powers doctrine of the Minnesota Constitution, the State of Minnesota shall pay for such services required for the judicial branch of state government to operate in order that it can continue to fulfill its obligations under the Minnesota Constitution and the U.S. Constitution.

2) An Order that the Commissioner of the Department of Management and Budget shall issue checks and process such funds as necessary to pay for such obligations of the State of Minnesota.

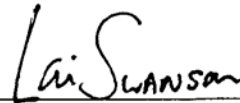
3) Such other relief as the Court deems appropriate.

Dated: June 17, 2011

Respectfully submitted,

MINNESOTA JUDICIAL COUNCIL

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DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil

In Re Temporary Funding of Core
Functions of the Judicial Branch of
the State of Minnesota

Court File No. C6-01-5911

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER GRANTING
MOTION FOR TEMPORARY FUNDING**

On June 28, 2001, this Court issued an Order to Show Cause setting a hearing date of June 29, 2001 on the motion of Petitioner Mike Hatch, Attorney General of the State of Minnesota, for an Order of this Court directing that core functions of the judicial branch of the State of Minnesota continue to operate and be funded on a temporary basis after June 30, 2001. The Order to Show Cause was served on various public officials as indicated by the affidavits of service on file.

A hearing was held on June 29, 2001 in front of the undersigned Judge of District Court, sitting by special appointment of the Honorable Kathleen A. Blatz, Chief Justice of the Minnesota Supreme Court.

Appearances were made by Attorney General Mike Hatch and Chief Deputy Attorney General Alan I. Gilbert on behalf of Petitioner. Other appearances at the hearing were as indicated on the record.

Having considered the pleadings filed in this matter and the oral presentations of counsel, this Court makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Petitioner Mike Hatch is the Attorney General of the State of Minnesota and in that capacity he represents the public in all legal matters involving the State of Minnesota. He also represents the people of the State in a *parens patriae* capacity.

2. The Minnesota Constitution provides that "government is instituted for the security, benefit and protection of the people" Article I, Section 1. Minnesota citizens are guaranteed under both the United States and Minnesota Constitutions the right to due process before deprivation of life, liberty or property. U.S. Const. Amendments III and IV; Minn. Const., Article I, Section 7. Minnesota citizens are guaranteed a wide range of rights under the Bill of Rights in both constitutions. U.S. Const. Amendments I-X; Minnesota Const. Article I.

3. The judicial branch of the State of Minnesota was established by the State Constitution and includes the Minnesota Supreme Court, the Minnesota Court of Appeals and Minnesota district courts.

4. Article VI of the Minnesota Constitution provides that the judicial branch of government have and perform certain core functions. The core functions involve the adjudication of cases. They include the obligations to promptly hear and decide criminal cases so that criminal defendants' rights are secured, and public safety concerns are met. The core functions of the judicial branch also include all activities necessary for civil courts to function so that citizens may have a prompt remedy for wrongs and injuries, as guaranteed by Article I, section 8 of the Minnesota Constitution.

5. The affidavit of State Court Administrator Sue Dosal, submitted to this Court in support of Petitioner's motion, adequately documents that the entire scope of services currently

performed by, and the responsibilities currently assigned to, the judicial branch are necessary to preserve the adjudicatory role and to perform the proper administration of justice as contemplated in the state constitution.

6. Any decrease in the ability of the judicial branch to handle cases and associated administrative matters would cause the judicial branch to be unable to carry out its core functions.

7. Article XI, Section 1 of the Minnesota Constitution provides that "no money shall be paid out of the treasury of this state except in pursuance of an appropriation by law." Under Article IV of the Minnesota Constitution, the Minnesota Legislature is given the authority to approve appropriations for Minnesota government to operate. This includes appropriations for the judicial branch.

8. The Minnesota Legislature ended its regular session on May 21, 2001 without approving appropriations for the judicial branch for the fiscal year beginning on July 1, 2001. On June 11, 2001 Governor Jesse Ventura convened the legislature in special session. The special session has not as yet resulted in any appropriations for the judicial branch.

9. Due to the lack of legislative appropriations, the judicial branch has insufficient funds to carry out its core functions as of July 1, 2001.

10. The State of Minnesota is not facing a budget crisis. The State has ample reserves at this time, and the judicial branch could continue to operate core functions if it had access to those funds.

CONCLUSIONS OF LAW

1. The Attorney General is authorized to commence an action in the courts of this State when he determines that the proceeding is in the interest of the State.

2. This Court has jurisdiction over this matter in accordance with Minn. Stat. ch. 484 (2000) and venue is proper in this Court pursuant to Minn. Stat. § 542.01 (2000).

3. Article III of the Minnesota Constitution provides that the powers of government shall be divided into three distinct departments: legislative, executive and judicial. Minn.Const. Art. 3, § 1. No branch is imbued with the power to nullify the core functions of the other. *See State ex. rel. Mattson vs. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986).

4. There are no existing legislative-administrative procedures for funding the judicial branch in the event of the Legislature's failure to make appropriations prior to the beginning of a fiscal year.

5. The core functions of the judicial branch must be funded adequately for it to meet its obligations under the United States and Minnesota Constitutions.

6. Failure to fund the core functions of the judicial branch nullifies the judicial branch, which in turn contravenes the Minnesota Constitution.

7. The judicial branch has inherent judicial power to insure its self-preservation. *Clerk of Courts Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W.2d 781 (Minn. 1976). Procedures have been established for the assertion of inherent judicial power. *Id.*

8. The relief requested in the petition for an order requiring the Commissioner of Finance and the State Treasurer to administer payments to the judicial branch for the funding of its core functions until appropriate Legislative appropriations have been finalized is necessary to the continued performance of the core functions of the judicial branch.

9. This Court has the inherent judicial power to order payment of such funds as are necessary to enable the judicial branch to carry out its core functions. *See Id.*

ORDER

1. The Minnesota judicial branch shall continue to perform the core functions of that branch as required by the Minnesota Constitution and the U.S. Constitution, and the State of Minnesota shall continue to pay for such services at the rate provided for in the fiscal year ending June 30, 2001.

2. The Minnesota Commissioner of Finance, Pamela Wheelock, and the Minnesota Treasurer, Carol Johnson, shall timely issue checks and process such funds as necessary to pay for such obligations so that the core functions of the judicial branch can be discharged.

3. Minnesota State Court Administrator Sue Dosal shall, consistent with the terms of this Order, determine what core functions are required to be performed by the judicial branch. She shall verify the performance of such core functions to the Commissioner of Finance and the State Treasurer, who shall pay for such services.

4. The Honorable Esther Tomljanovich is hereby appointed as a Special Master to mediate and, if necessary, hear and make recommendations to the Court with respect to any issues which may arise regarding compliance with the terms of this Order. The fees and expenses of the Special Master shall be paid by the State.

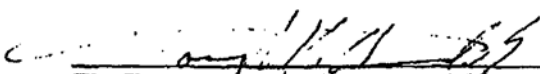
5. This Order shall be effective until the earliest of the following:
- a. July 23, 2001;
 - b. The enactment of a budget by the State of Minnesota to fund the core functions of the judicial branch after June 30, 2001; or
 - c. Further Order of this Court.

6. Petitioner shall serve by U.S. Mail a copy of this Order to the persons and entities listed in Exhibit A attached to the Order. The Petitioner shall also serve, by personal service, a copy of this Order upon the following individuals:

- a. The Honorable Jesse Ventura, Governor of the State of Minnesota,
- b. The Honorable Don Samuelson, President of the Minnesota State Senate,
- c. The Honorable Steve Sviggum, Speaker of the Minnesota House of Representatives,
- d. The Honorable Pamela Wheelock, Commissioner of Finance,
- e. The Honorable Carol Johnson, Minnesota State Treasurer,
- f. The Honorable Mary Kiffmeyer, Minnesota Secretary of State,
- g. The Honorable Judith Dutcher, Minnesota State Auditor,
- h. The Honorable Robert Small, Acting U.S. Attorney for the District of Minnesota; and
- i. Sue Dosal, State Court Administrator.

7. The Court hereby incorporates by reference, and adopts as its own, the Memorandum filed by the Attorney General with the Court in this matter.

BY THE COURT:



The Honorable Douglas K. Amdahl
District Court Judge

Dated this 29th day of June, 2001.