STATE OF MINNESOTA

IN SUPREME COURT

C4-85-1848, CX-89-1863

PROMULGATION OF AMENDMENTS TO THE MINNESOTA RULES OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH

AMENDED ORDER

In its order filed May 6, 2005, this Court adopted amendments to the Rules of Public Access to Records of the Judicial Branch and related rules effective July 1, 2005. Due to an administrative oversight, that order contained an incorrect version of rule 4, subd. 1(e) (2), of the Rules of Public Access to Records of the Judicial Branch. The Court desires to correct the oversight.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That Rule 4, subd. 1(e)(2), of the Rules of Public Access to Records of the Judicial Branch, as adopted by the May 6, 2005 order of this Court, is amended as set forth in the attachment to this order, effective July 1, 2005.

2. That the inclusion of Advisory Committee comments is made for convenience and does not reflect Court approval of the comments made therein.

Dated: June 17, 2005.

BY THE COURT

Kathleen A. Blatz
Chief Justice

OFFICE OF
APPELLATE COURTS

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FILED

Rules of Public Access to Records of the Judicial Branch

Rule 4. Accessibility to Case Records.

Subd. 1. Accessibility. All case records are accessible to the public except the following:

* * *

(e) *Race Records.* The contents of completed race census forms obtained from participants in criminal, traffic, juvenile and other matters, and the contents of race data fields in any judicial branch computerized information system, except that the records may be disclosed in bulk format if the recipient of the records:

(1) executes a nondisclosure agreement in a form approved by the state court administrator in which the recipient of the records agrees not to disclose to any third party any information in the records from which either the identity of any participant or other characteristic that could uniquely identify any participant is ascertainable; and

(2) ~~the custodian of the records reasonably determines that disclosure to the recipient will not compromise the confidentiality of any participant's race status~~obtains an order from the supreme court authorizing the disclosure.

Nothing in this section (e) shall prevent public access to source documents such as complaints or petitions that are otherwise accessible to the public.

* * *

Advisory Committee Comment-2005

The 2005 deletion of the word "temporary" in Rule 4, subd. 1(a), reflects statutory changes that allow the initial, ex parte order to be the permanent order of the court if no hearing is requested. See 1995 MINN. LAWS ch. 142, §§ 4, 5 (amending MINN. STAT. § 518B.01, subds. 5, 7).

The 2005 reorganization of Rule 4, subd. 1, parts (d) and (f) is not substantive in nature. Trial level juvenile court proceedings that are not accessible to the public include adoption (MINN. STAT. § 259.61 (2004); MINN. R. ADOPT. PROC. 8.01 (effective 1-1-2005), delinquency and extended jurisdiction juveniles (except where there are felony level charges and the juvenile was at least 16 years old at the time of the offense) (MINN. STAT. § 260B.163, subd. 1(c)(2004); MINN. R. JUV. DEL. PROC. 2.01), and other proceedings closed to the public by order of the court on a case-by-case basis (*see, e.g.*, MINN. R. JUV. PROT. PROC. 27.01 (permitting closure of child protection proceeding only in exceptional circumstances, and requiring public access to closure order)). If a trial level juvenile court proceeding is not accessible to the public, then Rule 4, subd. 1(d) precludes public access to the appellate records related to that proceeding except the written opinion of the appellate court or unless otherwise ordered by the court.

The 2005 addition of race records in Rule 4, subd. 1(e) is based on the understanding that race and ethnicity information is not solicited from participants for the purpose of reselling race status of individuals to commercial enterprises. The goal is to ensure fair resolution of cases, and the rule attempts to provide a limited right of public access consistent with that goal. Access to race records, e.g., for research purposes, can be obtained under a nondisclosure agreement that limits ultimate public disclosure to aggregate statistics that do not identify individual participants. The Supreme Court has a longstanding tradition of authorizing disclosure of juvenile court records for scholarly research using nondisclosure agreements. *See, e.g., Order Authorizing Disclosure of Juvenile Court Database for Research Purposes*, No. C4-85-1848 (Minn. S. Ct. filed May 14, 2001). ~~The custodian's duty to make a reasonable determination that disclosure will not compromise the identity of individuals is taken from the "summary data" provisions of the executive branch Data Practices Act. MINN. STAT. §§ 13.02, subd. 19; 13.05, subd.7 (2004).~~

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