

STATE OF MINNESOTA
IN SUPREME COURT

ADM10-8049

FILED

January 20, 2016

**OFFICE OF
APPELLATE COURTS**

ORDER AUTHORIZING INTERIM
PROCEDURES FOR ELECTRONIC
SEARCH WARRANTS

The Minnesota Rules of Criminal Procedure authorize the use of electronic signing tools and the electronic transmission of documents, subject to certain authorizations, including the electronic transmission and signing of search warrants. *See* Minn. R. Crim. P. 33.05(b). More specifically, as authorized by Minn. R. Crim. P. 33.05, warrants and supporting documents, including orders and warrants issued pursuant to Minnesota Statutes, Chapter 626A (2014), may be sent via facsimile transmission or may be sent and signed electronically. Similarly, written submissions in support of a search warrant may be presented electronically, by facsimile, or “by other appropriate means,” as authorized by Minn. R. Crim. P. 36.01.

The Judicial Branch, working with the Minnesota Bureau of Criminal Apprehension, is developing electronic search-warrant functionality that will facilitate and expedite the search-warrant application and review process. It is anticipated that once this functionality is available, use of the electronic method will be approved by the State Court Administrator. Minn. R. Crim. P. 33.05(b). In the interim, until that functionality is available and its use by district courts is approved, clarification is needed on the procedural requirements of Minn. R. Crim. P. 33.05 relating to electronic processes associated with search warrants, and the

requirements of Minn. R. Crim. P. 36 relating to oral testimony and the administration of oaths by telephone or similar means.

The court has the authority to regulate procedures in criminal matters, Minn. Stat. § 480.059, subd. 1 (2014), and the chief justice has general supervisory authority over the courts in the state. Minn. Stat. § 2.724, subd. 4 (2014). Based upon all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The provision for electronic transmission of search warrants and supporting documents as permitted by Minn. R. Crim. P. 33.05(b) includes the use of electronic mail. The judge to whom a search-warrant application is submitted has the discretion not to administer an oath to the applicant if the affidavit in support of the search-warrant application was signed under oath and notarized by a notarial officer pursuant to Minnesota Statutes Chapter 358 (2014).

2. If the judge administers an oath via telephone, radio, or other similar means of communication as authorized by Minn. R. Crim. P. 36.01, and the applicant does no more than attest to the contents of the written affidavit that was transmitted electronically, a verbatim recording of the oath and attestation is not required. The judge must note on the warrant that the person submitting the application was duly sworn and by what means of communication. If any testimony is to be taken in support of the application, the judge must proceed as required by Minn. R. Crim. P. 36.

3. A search warrant that is signed electronically or sent by facsimile or other

electronic-transmission means, including electronic mail, is valid and enforceable.

4. To the extent of any conflict between the terms of this order and the provisions of the Minnesota Rules of Criminal Procedure, the terms of this order prevail.

5. This order shall be effective immediately and shall continue until further order of the court. The Advisory Committee on the Rules of Criminal Procedure shall by April 1, 2016, provide recommendations to the court regarding any proposed amendments to the rules that are needed to bring the rules into conformity with the electronic procedures authorized by this order.

DATED: January 20, 2016

BY THE COURT:



Lorie S. Gildea
Chief Justice