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# **Minnesota Court of Appeals**

## **Significant Decisions**

**September 2020-August 2021**

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## Part I – CIVIL CASES

### Administrative Law

***In re Murack*, 957 N.W.2d 124 (Minn. App. Mar. 8, 2021) (A20-1178).**

Principles of statutory interpretation apply to the interpretation of executive orders issued under the authority of the Minnesota Emergency Management Act of 1996, Minn. Stat. §§ 12.01-.61 (2020).

***Hecker v. Crow Wing Cty. Bd.*, 959 N.W.2d 215 (Minn. App. Apr. 19, 2021) (A20-0932).**

1. A draft decision document is not effective “notice of the decision” for purposes of commencing the 30-day period to appeal a board of adjustment’s variance decision under Minn. Stat. § 394.27, subd. 9 (2020).

2. An aggrieved person appealing a board of adjustment’s variance decision under Minn. Stat. § 394.27, subd. 9, may invoke the jurisdiction of the district court by serving a notice of appeal, pursuant to Minn. R. Civ. P. 4.03, within the 30-day appeal period.

***Geyen v. Comm’r of Hum. Servs.*, 964 N.W.2d 639 (Minn. App. July 12, 2021) (A20-1300).**

Minn. Stat. § 501C.1206(b) (2020), which provides that certain irrevocable trusts become revocable “for the sole purpose” of determining eligibility for medical assistance for long-term-care services, is preempted by federal law.

***Builders Ass’n of Twin Cities v. Bd. of Elec.*, 965 N.W.2d 350 (Minn. App. July 19, 2021) (A20-1482).**

A deficiency in an agency’s statement of need and reasonableness (SONAR) may invalidate an agency rule, but only if the deficiency prejudiced the rulemaking process. Prejudice occurs if a SONAR does not adequately preview the agency’s intentions, evidence, and rationale so as to afford interested parties the opportunity to meaningfully participate in the rulemaking process. When a SONAR provides sufficient information for interested parties to meaningfully participate in the rulemaking process, there is no resulting prejudice.

### Appellate Procedure & Review

***State v. Chauvin*, 955 N.W.2d 684 (Minn. App. Mar. 5, 2021), *rev. denied* (Minn. Mar. 10, 2021) (A21-0201).**

A precedential opinion of the Minnesota Court of Appeals is binding authority for this court and district courts immediately upon its filing.

***In re Issuance of Air Emissions Permit No. 13700345-101 for Polymet Mining, Inc.*, 965 N.W.2d 1 (Minn. App. July 19, 2021), rev. denied (Minn. Sept. 29, 2021) (A19-0115, A19-0134).**

Under Minn. Stat. § 14.69 (2020), when an agency fails to adequately explain the reasons for its conclusions, a reviewing court may reverse the agency’s decision as unsupported by substantial evidence or remand to the agency for additional findings.

### **Child Protection**

***In re Welfare of Child. of M.L.S.*, 956 N.W.2d 257 (Minn. App. Feb. 22, 2021) (A20-1644).**

Even though an order denying permissive intervention in a civil case is generally not appealable, an order denying permissive intervention that effectively bars a party from being the adoptive placement for a child in a juvenile-protection proceeding is appealable under Minn. R. Juv. Prot. P. 23.02, subd. 1.

***In re Welfare of Child. of J.C.L.*, 958 N.W.2d 653 (Minn. App. Apr. 12, 2021), rev. denied (Minn. May 12, 2021) (A20-1521).**

In making findings pursuant to section 260C.517(a) of the Minnesota Statutes to support a permanency disposition other than a termination of parental rights, a district court must consider the best interests of the child according to the criteria specified in section 260C.511.

***In re Welfare of Child. of M.L.S.*, 964 N.W.2d 441 (Minn. App. June 28, 2021) (A20-1644).**

In deciding whether the best interests of the child favor granting a motion for permissive intervention in adoption proceedings under Minn. Stat. §§ 260C.601-.637 (2020), which governs adopting a child under the guardianship of the Minnesota Commissioner of Human Services, the district court weighs all relevant circumstances including, among other things, whether the movant is a relative of the child, whether the motion is timely, and whether any needs of the child bear on the child’s best interests in granting the motion.

### **Civil Procedure**

***Schroeder v. Minn. Sec’y of State*, 950 N.W.2d 70 (Minn. App. Sept. 8, 2020) (A20-0272).**

A claimed interest in avoiding unnecessary litigation and the spending of public funds on litigation does not constitute the required “interest relating to the property or transaction which is the subject of the action” that must be established to intervene as a matter of right under rule 24.01 of the Minnesota Rules of Civil Procedure.

***Cnty. Hous. Servs. v. Gay*, 954 N.W.2d 836 (Minn. App. Dec. 21, 2020), rev. denied (Minn. Mar. 16, 2021) (A20-0279).**

In an eviction action, a district court shall not issue a writ of recovery unless and until it has entered judgment in favor of the plaintiff.

***Blehr v. Anderson*, 955 N.W.2d 613 (Minn. App. Jan. 11, 2021) (see page 7 for second syllabus point for this case) (A20-0691).**

I. A written notice of claim under Minn. Stat. § 549.09, subd. 1(b) (2018), does not require a demand for a specific amount of money, but instead must contain sufficient information, in conjunction with the information known to the noticed party, to allow the noticed party to determine its potential liability from a generally recognized objective standard of measurement.

***MCHS Red Wing v. Converse*, 961 N.W.2d 780 (Minn. App. May 3, 2021) (A20-1001).**

A civil action is commenced, for the purposes of Minn. R. Civ. P. 5.04(a), when a plaintiff ineffectively serves a defendant and the defendant effectively serves an answer on the plaintiff that does not raise the affirmative defense of insufficient service of process.

***Alerus Fin., N.A. v. Aaron Carlson Corp.*, 966 N.W.2d 253 (Minn. App. Aug. 9, 2021) (A20-1135).**

A party is not required to file an affidavit of attempted service on a foreign corporation with the district court before effectuating substitute service on the Minnesota Secretary of State under Minnesota Statutes section 5.25, subdivision 4(a)(2) (2020).

### **Civil Commitment**

***In re Civ. Commitment of Turner*, 950 N.W.2d 303 (Minn. App. Sept. 14, 2020) (A20-0523).**

In the absence of a request for a substitute decision-maker, Minn. Stat. § 253B.092 (2018) does not require that the district court consider whether to appoint a substitute decision-maker before it orders the involuntary administration of neuroleptic medication to a patient subject to civil commitment.

***In re Civ. Commitment of Froehlich*, 961 N.W.2d 248 (Minn. App. May 10, 2021) (A20-1437).**

The requirement in Minn. Stat. § 253B.092, subd. 6(d) (2020), that a party seeking court authorization to administer neuroleptic medication to a patient subject to civil commitment must prove the patient's incapacity by a preponderance of the evidence does not violate the patient's right to privacy under the Minnesota Constitution.

***In re Civ. Commitment of Ashman*, 964 N.W.2d 166 (Minn. App. June 14, 2021) (A20-1586).**

The commitment appeal panel is authorized by the Minnesota Commitment and Treatment Act: Sexually Dangerous Person and Sexual Psychopathic Personalities, Minn. Stat. §§ 253D.01-.36 (2020), to review a revocation-of-transfer recommendation made by the special review board.

### **Environmental Law**

***In re Need for an Env't Impact Statement for Proposed Barrick Fam. Farms, LLP*, 955 N.W.2d 291 (Minn. App. Jan. 25, 2021) (A20-1417, A20-1418).**

The proposer of a project covered by the Minnesota Environmental Policy Act, Minn. Stat. § 116D.04 (2018), is a respondent and need not move to intervene in an otherwise proper certiorari appeal from a declaration that an environmental-impact statement (EIS) is not necessary.

***In re Application of Enbridge Energy, Ltd. P'Ship for Certificate of Need*, 964 N.W.2d 173 (Minn. App. June 14, 2021), *rev. denied* (Minn. Aug. 24, 2021) (A20-1071, A20-1072, A20-1074, A20-1075, A20-1077).**

Before granting a certificate of need for an oil pipeline under Minnesota Statutes section 216B.243 (2020), the Minnesota Public Utilities Commission must evaluate “the accuracy of the applicant’s forecast of demand for the type of energy that would be supplied by the proposed facility.” Minn. R. 7853.0130(A)(1) (2019). When an applicant seeks a certificate of need for a crude-oil pipeline, “demand” is “that quantity of a petroleum product from the applicant’s facilities for which there are willing and able purchasers.” Minn. R. 7853.0010, subp. 8 (2019). The willing and able purchasers of crude oil are refineries. The commission therefore must, in determining whether to grant a certificate of need for a crude-oil pipeline, evaluate a forecast provided by the applicant of the amount of crude oil from the proposed pipeline that refineries will be willing and able to purchase over the forecast period.

### **Family Law**

***Harris ex rel. Banks v. Gellerman*, 954 N.W.2d 604 (Minn. App. Jan. 25, 2021) (A20-0527).**

When reviewing a petition for a harassment restraining order on behalf of a person subject to guardianship, the court must consider not only the harassment restraining order request, but also the relevant provisions of the bill of rights of persons subject to guardianship or conservatorship, in conjunction with the guardianship order.

***Wolf v. Oestreich*, 956 N.W.2d 248 (Minn. App. Feb. 22, 2021), rev. denied (Minn. May 18, 2021) (A20-0235).**

“Joint legal custody” under Minn. Stat. § 518.003, subd. 3(b) (2018), “means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child’s upbringing, including education, health care, and religious training.” A joint legal custodian’s status as the provider of a child’s “primary residence” does not modify the rights and responsibilities of either joint legal custodian unless the district court orders otherwise.

***Schmidt v. Schmidt*, 964 N.W.2d 221 (Minn. App. June 21, 2021) (A20-0884).**

1. In determining whether a spouse seeking spousal maintenance is unable to provide adequate self-support through appropriate employment pursuant to Minnesota Statutes section 518.552, subdivision 1(b), a district court must consider the spouse’s net or after-tax income (rather than gross or pre-tax income) if there is evidence in the record of the spouse’s anticipated income-tax obligations and if the difference between the spouse’s gross income and net income may be determinative of the spouse’s need for spousal maintenance.

2. In determining the reasonable monthly expenses of a spouse seeking spousal maintenance, a district court must account for regular contributions to a retirement-savings account if making regular contributions to retirement-savings accounts was part of the standard of living established during the marriage.

### **Government & Immunity**

***Hogan v. Brass*, 957 N.W.2d 106 (Minn. App. Mar. 8, 2021), rev. denied (Minn. May 26, 2021) (A20-0846).**

The immunity from civil liability afforded by Minnesota Statutes section 317A.257, subdivision 1 (2020), to a nonprofit organization’s agent for actions done “within the scope of the person’s responsibilities as a[n] . . . agent” does not include the person’s actions that exceed the organization’s express limits on the scope of its services.

***Smallwood v. State, Dep’t of Hum. Servs.*, 966 N.W.2d 257 (Minn. App. Aug. 23, 2021), rev. denied (Minn. Nov. 16, 2021) (A21-0001).**

1. Data that is acquired by an unauthorized person’s hacking into a government account has not been “disseminated” in violation of Minnesota Statutes section 13.05, subdivision 4 (2020).

2. The state has not waived sovereign immunity for claims under the Minnesota Health Records Act, Minnesota Statutes sections 144.291–98 (2020).

## **Human Rights Law**

***N.H. v. Anoka-Hennepin Sch. Dist.*, 950 N.W.2d 553 (Minn. App. Sept. 28, 2020) (A19-1944).**

A transgender high-school student who is denied use of a locker room that is available to students of the gender with which the student identifies and to which the student has socially transitioned states a claim upon which relief can be granted of sexual-orientation discrimination under Minn. Stat. § 363A.13, subd. 1 (2018).

The intermediate scrutiny standard applies to an equal-protection claim of sexual-orientation discrimination under article I, section 2 of the Minnesota constitution.

A transgender high-school student who is denied use of a locker room that is available to students of the gender with which the student identifies and to which the student has socially transitioned states a claim upon which relief can be granted of an equal-protection violation under article I, section 2 of the Minnesota Constitution.

## **Jurisdiction & Procedure**

***Great Plains Educ. Found. v. Student Loan Fin. Corp.*, 954 N.W.2d 844 (Minn. App. Dec. 28, 2020), *rev. denied* (Minn. Mar. 30, 2021) (A20-0326).**

1. The presence of both a no-reliance and an integration clause in a settlement agreement does not as a matter of law bar a subsequent claim for fraudulent inducement of that settlement agreement based on alleged oral misrepresentations unless there are express terms in the settlement agreement that contradict the alleged oral misrepresentations.

2. A claim for fraudulent inducement of a settlement agreement does not constitute an impermissible attack on the judgment resulting from that settlement agreement.

***Minn. Voters All. v. State*, 955 N.W.2d 638 (Minn. App. Feb. 1, 2021) (A20-0601).**

To have standing in a declaratory-judgment action under Minn. Stat. § 14.44 (2018) to challenge the validity of a rule, a petitioner must demonstrate (1) a direct interest in the rule that is different in character from that of the citizenry in general; (2) an alleged harm that is not speculative or hypothetical; and (3) an alleged harm that is uniquely attributable to the rule.

## **Labor & Employment**

***In re Petition for Clarification of Appropriate Unit*, 962 N.W.2d 328 (Minn. App. May 3, 2021) (A20-1088).**

Under Minnesota Statutes section 43A.07, subdivisions 2-3 (2020), the Commissioner of the Minnesota Department of Management and Budget, not the Bureau of Mediation Services, has exclusive jurisdiction to review unit-reclassification petitions.



## **Real Estate & Property Rights**

***Lighthouse Mgmt. Inc. v. Oberg Fam. Farms*, 966 N.W.2d 29 (Minn. App. Aug. 30, 2021), rev. denied (Minn. Nov. 16, 2021) (A20-1303).**

Whether a grain bin constitutes a real-estate fixture or personal property is a question of fact to be determined by the fact-finder after considering these factors: (1) whether the grain bin can be removed without leaving the real property in a substantially worse condition than before; (2) whether the grain bin can be removed without breaking it into pieces and damaging the grain bin itself; (3) whether the grain bin has any independent value once removed from real property; and (4) the intent of the parties.

## **Remedies**

***Broadway Child Care Ctr., Inc. v. State, Dep't of Hum. Servs.*, 955 N.W.2d 626 (Minn. App. Jan. 11, 2021) (A20-0004).**

The Minnesota Equal Access to Justice Act provides that some parties may seek attorney fees and expenses, but excludes persons providing services under a license from the Minnesota Department of Health or Minnesota Department of Human Services when a party in a matter involving the license, such as an administrative proceeding that grants, suspends, revokes, or renews the license applicable to the provided services.

***Blehr v. Anderson*, 955 N.W.2d 613 (Minn. App. Jan. 11, 2021) (see page 3 for first syllabus point for this case) (A20-0691).**

II. Pre-verdict interest on additur damages is appropriate under Minn. Stat. § 549.09 (2018) because additur increases the verdict.

## **Unemployment Benefits**

***In re Muse*, 956 N.W.2d 1 (Minn. App. Feb. 22, 2021) (A20-1330).**

Minnesota high school students are not categorically ineligible to receive Pandemic Unemployment Assistance under the federal Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, 134 Stat. 281 (2020) (CARES Act).

## **PART II – CRIMINAL CASES AND CASES ON RELATED SUBJECTS**

### **Evidence**

***In re Lawrence*, 954 N.W.2d 597 (Minn. App. Dec. 21, 2020), rev. denied (Minn. Mar. 16, 2021) (A20-0382).**

When an attorney represents more than one client related to a matter, the clients hold a joint attorney-client privilege. Waiver of a joint attorney-client privilege requires consent by all joint clients.

### **Guilty Pleas**

***Rosendahl v. State*, 955 N.W.2d 294 (Minn. App. Feb. 8, 2021) (A20-0439).**

In determining the accuracy of a guilty plea, the reviewing court does not consider allegations contained in the complaint unless the truthfulness and accuracy of the allegations have been expressly admitted to by the defendant.

### **Search & Seizure**

***Soucie v. Comm’r of Pub. Safety*, 957 N.W.2d 461 (Minn. App. Mar. 29, 2021), rev. denied (Minn. June 29, 2021) (A20-0302, A20-0912).**

An officer who observes a car’s tire touching the edge of the roadway fog line that separates the traffic lane from the highway shoulder has reasonable suspicion to stop the car for violating Minnesota Statutes section 169.18, subdivision 7(1) (2020), which prohibits unsafely moving a car “from the lane.”

### **Sentencing & Restitution**

***State ex rel. Browneagle v. Schnell*, 957 N.W.2d 446 (Minn. App. Mar. 15, 2021) (A20-0766).**

An offender whose conditional release has been revoked does not have an entitlement under state law to again be released from prison to the community if his difficulty in finding agent-approved housing is due to reasons that are not largely outside his control, he has not yet reached the end of the revocation period, and his caseworker is making efforts to find an appropriate residence.

***State v. Bonkowske*, 957 N.W.2d 437 (Minn. App. Mar. 15, 2021) (A20-0500).**

Entering judgments of conviction for both driving while impaired (DWI) and test refusal, when the offenses are committed during a single behavioral incident, is barred by Minn. Stat. § 609.04, subd. 1 (2018), because the offenses are set forth in the same criminal statute.

***State v. Kimmes*, 962 N.W.2d 487 (Minn. App. June 14, 2021) (A20-0793).**

Tampering with a motor vehicle is a lesser-included offense of motor-vehicle theft.

**Substantive Criminal Law**

***State v. Nixon*, 957 N.W.2d 131 (Minn. App. Mar. 29, 2021) (A20-0420).**

To prove that a defendant is guilty of second-degree burglary pursuant to section 609.582, subdivision 2(a)(4), of the Minnesota Statutes, the state must prove that the defendant committed burglary while possessing a tool for the purpose of gaining access to money or property, either when entering the building or while in the building.