

STATE OF MINNESOTA

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. 62CV-11-5361

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

On _____, this Court issued an Order to Show Cause setting a hearing date of _____ on the motion of Petitioners Minnesota Judicial Council and Attorney General Lori Swanson for an Order of this Court directing that the judicial branch of the State of Minnesota continue to operate and be funded on a temporary basis after June 30, 2011. 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 _____ in front of the undersigned Judge of District Court, sitting by special appointment of the Honorable Lorie Skjerven Gildea, Chief Justice of the Minnesota Supreme Court.

Appearances 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 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. Petitioner 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. The Minnesota Constitution provides that “government is instituted for the security, benefit and protection of the people....” Article I, Section 1.

4. The judicial branch of the State of Minnesota is established by the State Constitution and includes the Minnesota Supreme Court, the Minnesota Court of Appeals, and the Minnesota district courts. Minn. Const. Article VI.

5. The judicial branch protects the rights of Minnesota citizens under the United States and Minnesota Constitutions. For example, the judicial branch upholds the mandate of the 14th Amendment of the U.S. Constitution. U.S. Constitution, amend. XIV, § 1 (no state shall “deprive any person of life, liberty, or property, without due process of law.”). It also enforces the provisions of the Minnesota Constitution, including those contained in the Bill of Rights, such as article 1, section 2 (“No member of this state shall be . . . deprived of any of the rights or privileges secured to any citizen thereof....”); article 1, section 6 (right to speedy and public trial by an impartial jury); article 1, section 7 (due process of law for criminal defendants); article 1, section 8 (right to civil redress for injuries or wrongs “promptly and without delay”); article 1, section 13 (just compensation when private property is converted to public use”).

6. 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 U.S. and state Constitutions.

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. As of today’s date, there has been enacted no appropriation to fund the judicial branch in the 2012-13 biennium. The judicial branch has insufficient funds to meet its constitutional obligations as of July 1, 2011.

CONCLUSIONS OF LAW

1. The Attorney General is authorized to commence an action in the courts of this State when she determines that the proceeding is in the interest of the State. The Minnesota Judicial Council, on behalf of the Minnesota Judicial Branch, is a proper party to the Petition.

2. This Court has jurisdiction over this matter in accordance with Minn. Stat. ch. 484 (2010) and venue is proper in this Court pursuant to Minn. Stat. § 542.01 (2010).

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. Article III, Section 1. No branch is imbued with the power to nullify the core functions of the other. *See State ex. rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986).

4. There are no existing legislative-administrative procedures for funding the judicial branch in the event that there is no appropriation for the judicial branch by the end of the fiscal year on June 30, 2011.

5. 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 judicial branch nullifies the judicial branch, which in turn contravenes the Minnesota Constitution.

7. The judicial branch has inherent judicial power to ensure its self-preservation. *See 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 the Department of Management and Budget to administer payments to the judicial branch for the funding of its functions until appropriations have been finalized is necessary to the continued performance of the constitutional obligations 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 meet its constitutional obligations. *See id.*

ORDER

1. The Minnesota judicial branch shall continue to perform the functions of that branch necessary to fulfill its obligations, and ensure citizens' rights, under 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, 2011.

2. The Commissioner of the Department of Management and Budget, Jim Schowalter, shall timely issue checks and process such funds as necessary to pay for such obligations so that the functions of the Judicial Branch can be discharged.

3. This Order shall be effective from July 1, 2011 until the earlier of the following:

- 1) July 30, 2011, unless extended by the Court,
- 2) The enactment of a budget by the State of Minnesota to fund the functions of the judicial branch after June 30, 2011, or
- 3) Further order of this Court.

4. Petitioner shall serve by U.S. Mail a copy of this Order to the persons and entities listed in Exhibit A attached to this Order.

BY THE COURT:

Dated: _____

Exhibit A

The Honorable Mark Dayton
Governor of Minnesota
130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable Kurt Zellers
Speaker, House of Representatives
463 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable Thomas M. Bakk
Minority Leader, The State Senate
100 Rev. Dr. Martin Luther King Jr. Blvd.
State Office Building, Room 147
St. Paul, MN 55155-1206

The Honorable Sue Dosal
State Court Administrator
135 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd
St. Paul, MN 55155

John Stuart, State Public Defender
State of Minnesota Board of Public Defense
331 Second Avenue South, Ste 900
Minneapolis, MN 55401

William J. Egan, Chairperson
Board on Judicial Standards
2025 Centre Pointe Blvd., Suite 180
Mendota Heights, MN 55120

The Honorable Michelle L. Fischbach
President, The State Senate
75 Rev. Dr. Martin Luther King Jr. Blvd.
Capitol Building, Room 226
St. Paul, MN 55155-1606

The Honorable Paul Thissen
Minority Leader, House of Representatives
267 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Senator Amy T. Koch
Majority Leader, The State Senate
75 Rev. Dr. Martin Luther King Jr. Blvd.
Capitol Building, Room 208
St. Paul, MN 55155-1606

The Honorable James Schowalter
Commissioner
Department of Management and Budget
400 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Suzanne Alliegro, Esq.
Guardian Ad Litem Board
125E Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd
St. Paul, MN 55155