

STATE OF MINNESOTA

OFFICE OF
APPELLATE COURTS

IN SUPREME COURT

JUN 30 2011

A11-1170

FILED

In re Government Shutdown Litigation

ORDER

Governor Mark Dayton and the State of Minnesota have filed separate motions for an emergency order under Minn. R. Gen. Prac. 113.03 consolidating and assigning to a single judge four actions (listed in the attached Addendum) for declaratory, injunctive and other relief relating to continued funding of certain state functions in the event of a government shutdown caused by lack of appropriations for the biennium starting July 1, 2011. The actions are filed in three different judicial districts, the First, Second, and Tenth.

In the first-filed action, *In re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota*, Ramsey County District Court File No. 62-CV-11-5203, the Honorable Kathleen R. Gearin, Chief Judge of the Second Judicial District, filed an order on June 29, 2011 (the June 29 order), determining which functions of the executive branch should be funded pursuant to court order during a government shutdown. Chief Judge Gearin appointed a special master to hear and make recommendations to the court on disputed issues that may arise concerning application of the June 29 order. The three additional actions listed in the Addendum seek various forms of relief that would essentially

continue funding for entities that would not be funded pursuant to the June 29 order in the event of a shutdown.

The Governor and the State request that these actions be consolidated and assigned to Chief Judge Gearin, on the basis that they involve common questions of law and fact, create the risk of inconsistent rulings, and impose an undue burden on judicial and party resources. The Governor also requested a stay of proceedings in the additional cases until the motion for consolidation and assignment has been resolved.

An opportunity for expedited response to the Governor's motion was provided.¹ Minnesota Harness Racing, Inc., the North Metro Harness Initiative, LLC, and Canterbury Park Holding Corporation filed responses in opposition to the motions. They argue essentially that their separate actions do not involve the determination of what constitutes core functions of government that were addressed in the Ramsey County case, but instead whether funds for which no new appropriation is necessary should be available for funding continuing operations. Canterbury Park also argues that venue is proper in Scott County where the effects of the government action will occur, and that the Governor lacks standing to bring his motion because he is not a party in the additional cases.

Assignment of these cases to a single judge will further the interests of the parties and the judiciary by eliminating duplicative litigation in different districts, preventing inconsistent rulings, conserving the resources of the parties, their counsel, and the judiciary, and facilitating resolution of the cases. Governor Dayton is a party in the Ramsey County

¹ The motion on behalf of the State was filed in response to the Governor's motion, but seeks the same relief with regard to consolidation and assignment.

case and therefore has standing to bring a motion under Rule 113.03 for consolidation with that case. It further appears that the additional actions would properly be venued in Ramsey County District Court under Minn. Stat. § 542.03, subd. 1 (2010), and *Ebenezer Society v. Minnesota State Bd. of Health*, 301 Minn. 188, 197, 229 N.W.2d 385, 390 (1974). The cases are therefore assigned to a single judge. A decision regarding consolidation of the cases is left to the discretion of the assigned judge.

Canterbury Park argues that because of time constraints, consolidation is the equivalent of dismissal. Respondents are not precluded from seeking expedited consideration in the appropriate forum, whether that is Ramsey County District Court or the Minnesota Court of Appeals.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Pursuant to Minn. R. Gen. Prac. 113.03, the Honorable Kathleen R. Gearin, of the Second Judicial District, having consented, is appointed to hear and decide all matters, including pretrial and trial proceedings, in the cases listed in the Addendum, as well as any additional cases that may be filed in any district court seeking or opposing funding of executive or legislative branch functions during a government shutdown resulting from lack of appropriations for the biennium starting July 1, 2011.

2. Unless otherwise ordered by Chief Judge Gearin, to facilitate the identification and management of these cases, all documents served and filed after the date of this order shall, in addition to the individual case caption, bear the general case caption “In re Government Shutdown Litigation.”

3. In addition to counsel for the parties, the Clerk of Appellate Courts shall transmit a copy of this order to the chief judges and the administrators of each judicial district, the judges to whom the cases listed in the Addendum are assigned, and the court administrators for the district courts in which the cases listed in the Addendum are venued.

Dated: June 30, 2011

A handwritten signature in cursive script, reading "Lorie S. Gildea", written over a horizontal line.

Lorie S. Gildea
Chief Justice

ADDENDUM

In re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota,

Second Judicial District
Ramsey County District Court
File No. 62-CV-11-5203
Hon. Kathleen R. Gearin

Canterbury Park Holding Corporation, a Minnesota company, and Minnesota Horsemen's Benevolent & Protective Association, Inc., a Minnesota company vs. State of Minnesota and Jim Showalter, Commissioner of Minnesota Management & Budget

First Judicial District
Scott County District Court
Court File No. 70-cv-11-13433
Hon. Diane M. Hanson

Minnesota Zoological Gardens vs. Office of Minnesota Management & Budget

First Judicial District
Dakota County District Court
Court File No. 19HA-cv-11-3622
Hon. Jerome B. Abrams

Minnesota Harness Racing, Inc., and North Metro Harness Initiatives, LLC, d/b/a Running Aces Harness Park, vs. State of Minnesota and Jim Showalter, Commissioner of Minnesota Management & Budget

Tenth Judicial District
Anoka County District Court
Court File No. 02-cv-11-4462
Hon. Donald J. Venne