

FILED

March 8, 2021

**OFFICE OF
APPELLATE COURTS**

A21-0201

STATE OF MINNESOTA
IN COURT OF APPEALS

STATE OF MINNESOTA,

Appellant,

vs.

DEREK MICHAEL CHAUVIN,

Respondent.

**MOTION FOR A STAY OF THE DISTRICT COURT PROCEEDINGS OR, IN
THE ALTERNATIVE, A WRIT OF PROHIBITION**

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INTRODUCTION

The State moves this Court for a stay or, in the alternative, a writ of prohibition preventing the District Court from starting the criminal trial at issue in this appeal until after this Court issues its judgment.

In this case, the District Court declined to follow this Court's precedential decision in *State v. Noor*, __ N.W.2d __, 2021 WL 317740 (Minn. App. Feb. 1, 2021), and refused to permit the State to amend the complaint to include a charge of third-degree murder. The State immediately appealed. On March 5, 2021, this Court issued an opinion holding that the District Court had erred in not giving this Court's decision in *Noor* immediate precedential effect. The District Court intends to begin Respondent Chauvin's trial today, March 8, 2021.

But until this Court enters a judgment, the District Court lacks jurisdiction to proceed with the trial. This Court could have entered its judgment today—if Respondent had agreed and stipulated to an immediate entry of judgment. *See* Minn. R. Civ. App. P. 136.02. Unless that occurs, however, Respondent has thirty days to file a petition for review in the Minnesota Supreme Court. *See id.* And until those thirty days expire, the District Court lacks jurisdiction to begin the trial. *See* Minn. R. Civ. App. P. 108.01 subd. 2.; Minn. R. Crim. P. 28.04 subd. 2(8). Today, Respondent notified the Court that he will file a petition with the Minnesota Supreme Court.

The State submits this filing reluctantly. The State is mindful of the immense resources devoted to this case. And the State is fully ready to proceed to trial today. Indeed, the State expedited this appeal to reduce the chance that a pending proceeding

would delay the trial. The very day this Court issued its opinion, the State asked Respondent's counsel at a pretrial conference whether Respondent planned to petition for further review. At the same conference, the State notified Respondent and the District Court of the State's concern that the District Court lacks jurisdiction to proceed unless Respondent stipulates to an immediate entry of judgment.

The District Court has decided to proceed to trial anyway. Respondent, of course, has every right to seek further review in the Minnesota Supreme Court; the State is not suggesting that Respondent forgo his right to petition that Court. But unless this Court intervenes and stays the District Court's proceedings, Respondent is effectively in a "heads I win, tails you lose" situation. Respondent can take his chances at trial. And if he is convicted, he can now also claim that he is entitled to reversal because the District Court lacked jurisdiction at a crucial moment in the trial.

There is no need for this kind of uncertainty in any case, let alone a case of this magnitude. This Court should grant the motion and issue an order staying the start of trial until after this Court enters its judgment.

ARGUMENT

I. The District Court Lacks Jurisdiction Until This Court Enters Judgment.

The rules of procedure and case law both confirm that so long as this Court has not yet issued its judgment, the District Court may only exercise jurisdiction over ancillary matters unrelated to the appeal.

The Rules of Civil Appellate Procedure apply in the absence of an on-point Rule of Criminal Procedure. *See* Minn. R. Crim. P. 28.01 subd. 2. The Rules strictly govern when

this Court may enter a judgment: “Unless the parties stipulate to an immediate entry of judgment,” this Court “shall enter judgment pursuant to the decision or order *not less than 30 days* after the filing of the decision or order.” Minn. R. Civ. App. P. 136.02 (emphasis added). This mandatory 30-day period allows the losing side time to petition for further review in the Minnesota Supreme Court. Once a petition is filed, the petition stays the entry of judgment until after the Supreme Court hears the case (or denies review).

Those same rules also expressly state that “the filing of a timely and proper appeal suspends the trial court’s authority to make any order that affects the order or judgment appealed from.” Minn. R. Civ. App. P. 108.01 subd. 2. Accordingly, the “trial court retains jurisdiction [only] as to matters independent of, supplemental to, or collateral to the order or judgment appealed from.” *Id.*

The criminal rules further confirm that the District Court loses jurisdiction, except with respect to that narrow class of collateral matters. Rule of Criminal Procedure 28.04 states that an interlocutory appeal “does not deprive the district court of jurisdiction over pending matters not included in the appeal.” Minn. R. Crim. P. 28.04 subd. 2(8). But this language implies that so long as this Court’s judgment remains outstanding, a district court lacks jurisdiction over any matters “included in the appeal.” *Id.* And this language does not displace the background rule set forth in the Rules of Civil Appellate Procedure. *See* Minn. R. Crim. P. 28.01 subd. 2 (“[T]he Minnesota Rules of Civil Appellate Procedure govern appellate procedure unless these rules direct otherwise.”).

Precedent also demonstrates that a district court lacks jurisdiction until this Court issues a judgment. For instance, in *State v. Grose*, 396 N.W.2d 874, 875 (Minn. App.

1986), this Court affirmed the district court’s dismissal of indictments. Before the thirty-day period expired, the county attorney “moved the trial court for an extension of time to file new indictments or complaints.” *Id.* The district court held that it lacked jurisdiction to do so. This Court “agreed that the trial court did not have jurisdiction and could not obtain it until thirty days from the filing of the court of appeals decision.” *Id.*; see *Hoyt Inv. Co. v. Bloomington Com. & Trade Ctr. Assocs.*, 421 N.W.2d 735, 739 (Minn. App. 1988) (“The trial court did not have jurisdiction to enter judgment in this matter, and the judgment is void.”).

The District Court’s decision to begin trial is not an “independent,” “supplemental,” or “collateral” issue or a “pending matter[] not included in the appeal.” Minn. R. Civ. App. P. 108.01 subd. 2; Minn. R. Crim. P. 28.04 subd. 2(8). The District Court correctly acknowledged that it lacks jurisdiction to even hear arguments on Respondent’s alternative theories against including a third-degree murder charge, let alone decide that issue. The District Court mistakenly believes, however, that it may select the jurors who will ultimately adjudicate that very charge. But the same reason why the District Court cannot hear arguments on a motion it cannot adjudicate shows why the District Court clearly lacks jurisdiction to proceed with voir dire: both hearing an argument on a motion and screening jurors are supplementary proceedings to an ultimate judicial act. If the Court lacks the authority to perform a judicial act, it also lacks the authority to perform the supplementary proceeding. After all, how could choosing the fact finders who are at the heart of the Anglo American tradition of criminal justice ever be ancillary to the criminal proceeding. Here, the District Court lacks authority to swear jurors in—which is the entire point of proceeding

with the selection process. Indeed the District Court may not be able to swear selected jurors in for months, depending on when the Supreme Court acts on Respondent’s petition for review. Just as the District Court cannot hear arguments on a motion over which it lacks jurisdiction, the Court therefore cannot evaluate jurors when it lacks the authority to proceed.

II. This Court Has Authority To Stay The District Court Proceedings.

This Court has two independent sources of authority that authorize it to stay the District Court’s proceedings in this case.

First, the Court may order the District Court to stay its proceedings under its ancillary jurisdiction. Minnesota Statute Section 480A.06 empowers this Court to “issue all writs and orders necessary in aid of its jurisdiction with respect to cases pending before it and for the enforcement of its judgments or orders.” Minn. Stat. § 480A.06, subd. 5. This appeal—and all of the issues it encompasses—is currently pending before this Court. It will aid this Court’s jurisdiction and the operation of its rules to prevent the District Court from usurping this Court’s authority until its judgment has issued. *See Arden Props. v. Anderson*, 473 N.W.2d 924, 924 (Minn. App. 1991) (holding that “this court retains ancillary jurisdiction to issue all writs and orders necessary to enforce the appellate rules”).

Second, in the alternative, the State requests, and this Court may issue, a writ of prohibition. *See* Minn. R. Civ. App. P. 120.01 (empowering Courts of Appeal to issue writs of prohibition or “any other extraordinary writ”). There are three criteria for a writ of prohibition: “(1) an inferior court or tribunal must be about to exercise judicial or quasi-judicial power; (2) the exercise of such power must be unauthorized by law; and (3) the

exercise of such power must result in injury for which there is no adequate remedy.” *In re B.H.*, 946 N.W.2d 860, 866 (Minn. 2020) (internal quotation marks omitted). Here, all three prongs of that test are met: The District Court is about to begin a criminal trial, the quintessential example of an exercise of judicial power. The District Court’s exercise of power is unauthorized by law because the District Court currently lacks jurisdiction. *See supra* pp. 3-4. And the District Court’s exercise of power will create a fundamental defect in these proceedings that the State cannot otherwise remedy.

CONCLUSION

The State is ready and able to proceed to trial as soon as the District Court regains jurisdiction. But until that occurs, the District Court does not have authority to proceed with the trial. This Court should order the District Court not to begin trial until this Court enters judgment.

Dated: March 8, 2021

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