

STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT COURT



JAMES T. SWENSON
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April 2, 2012

Jill Clark, Esq.
2005 Aquila Avenue No.
Golden Valley, Minnesota 55427

Re: Your March 30, 2012, letter regarding case #s 27-CR-11-32635 and 27-CR-11-33938
(assigned to Judge Bartolomei) and CHIPS case# 27-JV-12-415 (assigned to Judge Fred
Karasov)

Dear Ms. Clark:

I am responding to your March 30, 2012 letter. Therein you contend that the above-entitled cases represent the type of situation contemplated by Minn.R.Juv. P. 1.02(h) and thus should be combined in a coordinated process. Your letter makes clear that you are not "asking for any ruling of any kind from the Chief Judge." Instead, it appears that you are asking me to comment regarding your belief that there may be some type of "unwritten rules" or a more formal policy of which you are unaware that governs the coordinated process in the Fourth Judicial District. I am unaware of either.

Please let me point out a few nuances not covered in your letter that may contribute to any confusion. You started your analysis by focusing on a juvenile court rule, but it may help to begin with a few statutes. Judges in greater Minnesota are judges of general jurisdiction who handle all types of cases. The coordination of juvenile, criminal, and family cases in front of one judge in greater Minnesota presents a different situation than that which occurs in the Fourth Judicial District (as well as the Second). Minnesota Statutes Section 484.65 created a Family Court division for the Fourth Judicial District and Section 260.019 created a separate Juvenile Court. Other sections in those chapters authorize the employment of referees in both specialty courts. Except on rare occasions (more on that later), and consistent with these statutes, judicial officers assigned to our Family Court hear all family cases and judicial officers assigned to our Juvenile Court here all juvenile cases. "Coordination" as I understand the term to be used by you (meaning assigning juvenile and family cases involving one family to one judicial officer) is problematic in the Fourth Judicial District because our Family Court and Juvenile Court judicial officers serve in distinct courts. The legislature was not unaware of this difficulty and promulgated Minnesota Statutes Section 484.78 **Combined Jurisdiction Program** to help facilitate limited coordination:

Notwithstanding sections 260.031, subdivision 4, and section 484.70, subdivisions 6 and 7, the Second and Fourth Judicial Districts may assign related family, probate, and juvenile court matters, other than delinquency proceedings, to a single judge or referee.

Note that Section 484.78 does not include parents' criminal cases in the case types available for a combined assignment. This exclusion makes perfect sense when one understands that referees employed in our Family and Juvenile Courts cannot handle key aspects of criminal proceedings.

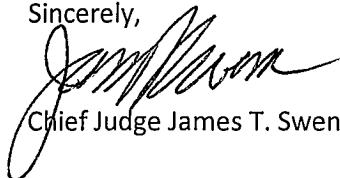
I said I would comment more on my "except on rare occasions" caveat. Minnesota Statutes Section 484.69 gives the local Chief Judge the discretion "to assign any judge of any court within the judicial district to hear any matter in any court of the judicial district." This means that I can assign a Juvenile Court judge to hear a family and/or a criminal matter and I can assign a judge in our criminal division to hear a family and or/a juvenile matter, etc. However, Chief Judges do not do this unless they are asked to make cross court/cross division assignments. If my historical memory serves me correct, such requests have been made on very rare occasions since I became a judge in 1995, and none during my tenure as Chief (that I presently recall). There are cogent reasons why this rarely occurs. For example, national standards now suggest that because of the unique and complicated nature of CHIPS cases, they should only be assigned to trial court judges serving in juvenile court rotations for a minimum of five years. Minnesota is not there yet, but the Fourth Judicial District recently took a big step in that direction when we voted to increase the minimum Juvenile Court assignment to three years. From a practical perspective, this means that I am not likely exercise my discretion to assign a CHIPS case (or a family case) to a criminal judge with no CHIPS or family experience simply because all three cases share in common the same family member(s). Similarly, I would be reluctant to exercise my discretion to assign a CHIPS case and a criminal case to a Family Court judge assigned to a family case involving the same family members unless that Family Court judge had significant, current CHIPS knowledge, plus significant, recent criminal experience.

I might add that your letter suggests that a coordinated process is appropriate because it would benefit a criminally charged adult family member. The Juvenile Court rule cited in your letter, along with the Advisory Committee Comments thereto, champion a coordinated process "to assure a consistent outcome that is in the best interests of the child [not an adult family member]."

To repeat, I am unaware of any "unwritten rules" or a more formal policy¹ that govern case assignments here in the Fourth Judicial District, including any coordinated process requests. Since so much discretion is reposed in the local Chief Judge, with each new one bringing different experience/knowledge quotients to the job, it would not be surprising to find some variety in their responses to coordinated process requests.

I hope my explanation has somewhat clarified your understanding of case assignments here in the Fourth Judicial District.

Sincerely,



Chief Judge James T. Swenson

cc: Judge Bartolomei, Judge Fred Karasov, Mike Freeman, Breann Morris, Atty. McCreasy, Atty. Hatcher, GAL Leaf, Juvenile staffer Williams, Asst. MCAO Rygh, MCAO Kelly, Criminal Filing, and Civil Filing

¹ As distinct from "case assignment," there are formal policies regarding specialty court/division assignments.