

STATE OF MINNESOTA
IN COURT OF APPEALS



State of Minnesota,

Respondent,

vs.

J. Alexander Kueng,

Appellant.

ORDER

#A20-1225

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. This appeal was filed on September 22, 2020, from the district court's September 4, 2020 order granting in part and denying in part appellant's request for fees under Minn. Stat. § 611.21(c) (2018). Appellant is represented by private counsel and has paid the \$550 filing fee for this appeal.

2. When the district court issues an order denying counsel the authority to obtain funding for services other than counsel, the defendant may appeal immediately from that order and may request an expedited hearing. *Id.* Counsel has requested expedited consideration.

3. Also on September 22, 2020, appellant filed a statement of the case, indicating that transcripts are not required and oral argument is not requested.

4. It appears that the district court considered appellant's request for fees ex parte. In past appeals, this court has looked to the attorney general's office to provide

adversarial briefing that is essential to appellate review. The attorney general's office is involved in the underlying proceeding and has taken steps to ensure that responsive briefing is provided by an assistant attorney general who has no involvement in the underlying proceeding. Accordingly, Assistant Attorney General Jacob Campion has been assigned to this appeal, with appropriate confidentiality protections, and will file a responsive brief.

5. Records involving a request for fees under Minn. Stat. § 611.21 are not publicly accessible. Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 1(g) (indicating that register of actions may disclose existence of request and ruling but not substance). Similarly, the existence of this appeal is public, but no party-filed documents shall be accessible to the public, either remotely, or in person, via courthouse terminals. *See* Minn. R. Pub. Access to Recs. of Jud. Branch 8, subd. 2; *see also* Minn. R. Civ. App. P. 112.01, subd. 1 (requiring that documents filed under seal in district court remain under seal on appeal), .03 (duty to maintain confidentiality).

IT IS HEREBY ORDERED:

1. Appellant's request for an expedited hearing is granted.
2. On or before October 2, 2020, appellant shall provide this court with proof of service for the notice of appeal and statement of the case on Assistant Attorney General Jacob Campion and the district court administrator.
3. Appellant's brief shall be e-served on Assistant Attorney General Jacob Campion and e-filed with this court by October 8, 2020.

4. The contents of the statement of the case, the briefs, and any part of the record shall not be disclosed to the county attorney's office or to any employee of the attorney general's office who is involved in the underlying proceeding.

5. The responsive brief shall be e-served on appellant's counsel and e-filed with this court within 14 days after service of the appellant's brief.

6. Appellant's reply, if any, shall be served and filed within five days after service of the respondent's brief.

7. This appeal will be submitted without oral argument to the special term panel on November 10, 2020.

8. Subject to substitution, the judges assigned to consider this matter are:

Susan L. Segal, Chief
Judge Lucinda E. Jesson,
Judge Randall J. Slieter,
Judge

9. The clerk of the appellate courts shall immediately request transmittal of the district court record.

10. The clerk of the appellate courts shall provide copies of this order to appellant's counsel, Jacob Campion of the attorney general's office, and the district court administrator.

Dated: September 24, 2020

BY THE COURT

Susan L. Segal
Chief Judge