

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

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Unity Church of St. Paul and  
White Bear Unitarian Universalist  
Church,

File No. C9-03-9570

Plaintiffs,

And

Adath Jeshurun Congregation, et al.,

Intervening Plaintiffs,

**ORDER AND  
MEMORANDUM**

VS.

State of Minnesota,

Defendant.

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The above-entitled matter came on for hearing before the **Honorable John T. Finley** on the 21<sup>st</sup> day of November, 2003, pursuant to the State of Minnesota's motion for change of venue.

**Hilary Lindell Caligiuri, Esq.**, appeared by and behalf of the State of Minnesota. **Marshall H. Tanick, Esq.**, appeared by and behalf of plaintiffs White Bear Unitarian Universalist Church and Unity Church of St. Paul. **David L. Lillehaug, Esq.**, represented the rest of the defendants. **Burt T. Osborne**, Assistant City Attorney, represented the City of Minneapolis.

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

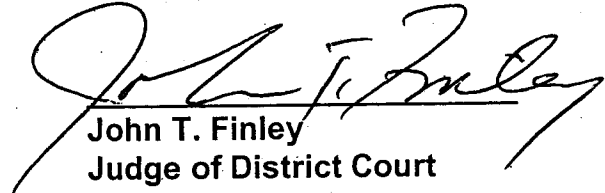
**IT IS HEREBY ORDERED THAT:**

1. The State of Minnesota's motion for change of venue is hereby **DENIED**.
2. The attached Memorandum is made a part of this order pursuant to

Minnesota Rules of Civil Procedure 52.01.

Dated: November 24, 2003

BY THE COURT:

  
John T. Finley  
Judge of District Court

## MEMORANDUM

### FACTS

This lawsuit brought by plaintiffs is against the State of Minnesota challenging the Personal Protection Act of 2003, which is known as the conceal-and-carry law. The allegations set forth in the Complaint claim that the act violates the free exercise provision of the Minnesota Constitution; freedom of association and freedom of speech and religion, under the First Amendment to the U.S. Constitution; taking without compensation in violation of both the State and U.S. Constitution; that it embraces more than one subject in violation of Article 4, Section 17 of the Minnesota Constitution and is a violation of the Federal Religious Land Use Act of 2000. The action was brought in Ramsey County because the original plaintiffs were from Ramsey County and Ramsey County is the proper venue for actions against the State of Minnesota.

The State of Minnesota moves for a change of venue because an action was commenced in Hennepin County in which Judge Marilyn Rosenbaum issued a

temporary injunction against the State. The preliminary ruling holds that signage and notification provisions violated the Minnesota Constitution. Judge Rosenbaum's ruling is on appeal to the Minnesota Court of Appeals.

Defendant argues that we should change the venue to Hennepin County and urges that in the event venue is changed they will then move for consolidation of the case with that which is before Judge Rosenbaum following the decision of the Court of Appeals.

### **LAW**

Minnesota Statutes 542.11 states, "

#### **542.11 Change of venue by order of court; grounds.**

The venue of any civil action may be changed by order of the court in the following cases;

- (1) upon written consent of the parties;
- (2) when it is made to appear on motion that any party has been made a defendant for the purpose of preventing a change of venue under section;
- (3) when an impartial trial cannot be had in the county wherein the action is pending; or
- (4) when the convenience of witnesses and the ends of justice would be promoted by the change.

HIST: (9216) RL s 4097

### **ANALYSIS**

It is clear that the State believes that since the counties are adjacent to each other that any witnesses would not be inconvenienced by being in Hennepin County. The State also argues that many of the same witnesses would be required to testify twice if it is not moved to Hennepin County and that it would be cumbersome upon the two courts, as well as the fact that there may be two different rulings on the same issues.

The plaintiffs, on the other hand, argue that the parties in the Hennepin County case are

not the same parties as that which is now pending at the Court of Appeals. Furthermore, the allegations in that case are not the same as in the instant case because the issue of whether or not there is more than one subject matter in the law in violation of the Minnesota Constitution was not alleged in the Hennepin County complaint.

It is clear that the Court can change the venue pursuant to 542.11, subdivisions #1 through #4. It appears that only subdivision #4 could possibly apply to this case. In Subdivision #4, the Court should change venue if it would be of more convenience to the witnesses and the ends of justice are promoted by the change. It does appear that witnesses actually would be more inconvenienced by a move to Hennepin County. The only possibility of being of more convenience would be if consolidation of the two cases was granted, and there is no guarantee that the cases would be consolidated even if this Court granted a change of venue. The issue of consolidation is not before this Court, but the Court is aware that the parties are different and at least one issue is different. The ends of justice would certainly be served in either court, but justice would not be promoted in this case by the change of venue.

**CONCLUSION**

The case venued in Hennepin County is Edina Community Lutheran Church v. State of Minnesota, none of the plaintiffs listed as parties in this case are listed as parties there. There is not a commonality of parties and additionally not all of the allegations are similar in nature as stated above.

For these reasons, the defendant's motion for change of venue, which lies in the sound discretion of the trial court, is hereby **DENIED**.

11/25/03

J.T.F. 