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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-1037**

In the Matter of the  
Welfare of: C. G. M.

**Filed December 15, 2009  
Affirmed  
Klaphake, Judge**

Hennepin County District Court  
File No. 27-JV-08-15038

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, C-2000 Government Center, 300 S. 6th Street, Minneapolis, MN 55487 (for respondent State of Minnesota)

William M. Ward, Chief Public Defender, Peter W. Gorman, Assistant Hennepin County Public Defender, 701 4th Avenue South, Suite 1400, Minneapolis, MN 55415 (for appellant C.G.M.)

Considered and decided by Halbrooks, Presiding Judge; Klaphake, Judge; and Bjorkman, Judge.

**UNPUBLISHED OPINION**

**KLAPHAKE**, Judge

On appeal from the district court's denial of a motion to certify appellant C.G.M. for adult prosecution, appellant challenges the district court's denial of his motion to

dismiss the certification motion. Because the certification motion was timely under Minn. R. Juv. Delinq. P. 18.02, we affirm.

## D E C I S I O N

The construction of a rule of juvenile delinquency procedure presents a question of law, which we review de novo. *In re Welfare of J.D.O.*, 504 N.W.2d 281, 283 (Minn. App. 1993), *review denied* (Minn. Sept. 30, 1993). When construing procedural rules, we “look first to the plain language of the rule.” *State v. Underdahl*, 767 N.W.2d 677, 682 (Minn. 2009).

Rule 18.02 provides that the prosecutor may move to certify a juvenile for adult prosecution “at the first appearance of the child pursuant to Rules 5 or 7, or within ten (10) days of the first appearance or before jeopardy attaches, whichever of the latter two occurs first.” Minn. R. Juv. Delinq. P. 18.02, subd. 1. Rule 5 is inapplicable here. Rule 7 governs arraignments and defines an arraignment as “a hearing at which the child shall enter a plea.” Minn. R. Juv. Delinq. P. 7.02. The district court is required to conduct various procedures “on the record” at “the commencement of” an arraignment hearing. Minn. R. Juv. Delinq. P. 7.04, subds. 1-3.

The state filed its certification motion at appellant’s arraignment hearing on February 23, 2009; it is undisputed that this hearing was an appearance pursuant to rule 7. But appellant contends that his first appearance was on January 27, 2009, and therefore the motion filed on February 23 was untimely. We disagree. The record reflects that appellant was present on January 27 solely to ask for a continuance to retain private counsel. Appellant did not enter a plea on January 27, the continuance was addressed off

the record, and there is no record of appellant appearing before a judge on that day. Appellant's presence at the juvenile justice center on January 27 did not constitute an appearance pursuant to rule 7. Because the first and only time appellant appeared before the district court pursuant to rule 7 was on February 23, 2009, the district court properly concluded that the state's motion filed on that date was timely.

**Affirmed.**