

IN THE COURT OF COMMON PLEAS  
GENERAL DIVISION  
CUYAHOGA COUNTY, OHIO

FILED

2020 AUG -3 P 4: 44

CLERK OF COURTS  
CUYAHOGA COUNTY

In Re:

ORDER REGARDING CONTINUITY OF  
OPERATIONS AND JURY TRIALS  
DUE TO COVID-19 PANDEMIC

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JOURNAL ENTRY

The Judges of the Cuyahoga County Court of Common Pleas, General Division, make the following findings of fact:

1. Whereas, on April 27, 2020, Gov. Mike DeWine and Lt. Gov. John Husted announced the Responsible RestartOhio Plan which protects the health of employees, customers, and their families; supports community efforts to control the spread of the virus; and, responsibly gets Ohio back to work; and,
2. Whereas, on April 30, 2020, Dr. Amy Acton, Director of the Ohio Department of Health, signed the Director's Order that Reopens Businesses, with Exceptions, and Continues a Stay Healthy and Safe at Home Order; and,
3. Whereas, the Ohio Public Health Advisory System was designed to supplement existing statewide orders through a data-driven framework to assess the degree of the virus' spread and to engage and empower individuals, businesses, communities, local governments, and others in their response and actions; and,
4. Whereas, on July 23, 2020, Lance Himes, Interim Director of the Ohio Department of Health, signed the Director's Order for Facial Coverings throughout the State of Ohio; and,
5. Whereas, the Judges of this Court extended the Judicial Emergency Administrative Order until the pandemic subsides and an order declaring an end to the emergency is issued; and,
6. Whereas, to continue court operations in a safe manner for the Court's employees and the citizens of Cuyahoga County; and,
7. Whereas, the number of COVID-19 cases in Cuyahoga County has increased since the Court's last Order. Specifically, the daily case count on April 28 was 73 and on July 28 was 168; and,
8. Whereas, jury trials during present unique challenges. However, the Court recognizes that jury selection in this jurisdiction involves large jury venire pools. These pools often consist of individuals in the categories identified by the Centers for Disease Control and Prevention as being particularly at risk, individuals involved in essential public functions, and individuals responsible for children unable to attend school or daycare due to the pandemic; and,
9. Whereas, based upon recommendations from the Cuyahoga County Board of Health, it will be a challenge to conduct jury trials while taking the necessary precautions to reduce the possibility of exposure to the disease, not only for jurors but other trial participants as well; and,

10. Whereas, jury trials force close contact between attorneys who must communicate with clients and others during the course of a trial; and,
11. Whereas, the Court has considered reasonable alternatives to conducting jury trials in areas other than the Justice Center, but none provide the level of safety or security required to properly convene and conduct criminal jury trials; and,
12. Whereas, Mark Stanton, Cuyahoga County Public Defender, and Nancy Jamieson, President of the Cuyahoga County Defense Lawyers Association, both wrote to this Court expressing concern for the safety of all those who would be involved in jury trials. Additionally, Cuyahoga County Prosecutor Michael C. O'Malley raised similar concerns in discussions with this Court;

IT IS THEREFORE ORDERED:

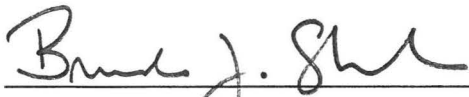
1. The Order Extending the Judicial Emergency and Continuity of Operations of the Court Due to COVID-19 Pandemic, signed April 28, 2020, is incorporated herein by reference. Where there is any discrepancy, this order supersedes the April 28 order;
2. The Updated Order Regarding Continuity of Operations to Maximize Social Distancing Due to COVID-19 Pandemic, signed July 1, 2020, is incorporated herein by reference. Where there is any discrepancy, this order supersedes the July 1 order;
3. The Local Rules of the General Division may be temporarily adapted to allow court flexibility, within constitutional limits, in response to the public health emergency;
4. The Court's Personnel Policies and Procedures Handbook and other usual and customary human resources provisions may be temporarily adjusted to maintain essential court operations and functions;
5. The Court authorizes the use of audio-visual devices and technologies for all actions and proceedings, except for a trial by jury in a criminal matter;
6. The General Division shall continue to function under current physical distancing protocols as ordered by the Governor of Ohio. Should the Governor order further protective protocols, all individuals within the courthouse shall abide by said protocols. These protocols must be followed at all times, including jury trials;
7. Criminal Jury Trials:
  - a. Jury trials in criminal cases will not commence until September 21, 2020. This date will be re-evaluated no later than August 24, 2020.
  - b. To accommodate trials and the effect of public health recommendations on trials, the period of the continuances implemented by this Order are excluded under O.R.C. 2945.72 and Ohio Constitution I, Sec. 10. The Court specifically finds that the ends of justice served by ordering the continuances outweigh the interest of the public and any defendant's right to a speedy trial.
  - c. Further, this Court finds that a continuance of trial which supersedes a defendant's speedy trial right is hereby considered permissible by all judges of the General Division under the Ohio Constitution and O.R.C. 2945.72 (H) as a "reasonable continuance granted other than upon the accused's own motion", due to current pandemic levels.
  - d. Any continuance of a jury trial will be docketed with the COVID-19 Trial Continuance Order, as follows:

- i. “The trial of this matter is continued to a future date. This continuance is required for the administration of justice. Due to the continued risk of community spread of the COVID-19 virus, and in order to maintain the safety of the public, court employees, litigants, attorneys, and others whose business is at the Justice Center, the Court, by Administrative Order dated August 3, 2020, has limited its operations and set parameters for the selection of cases for jury trial. The Administrative Order is intended to allow the Court to safely and responsibly continue operations. The Court has considered reasonable alternatives to conducting jury trials in areas other than the Justice Center. However, the serious threat to the public health is good cause to continue this jury trial. Cases of COVID-19 continue to remain at high levels, placing Cuyahoga County in the Public Alert Level of [Red]. Further on July 13, 2020, Chief Justice Maureen O’Connor provided guidance to the courts and stated, “we must be cautious about who we require to appear, and we should require in-person appearance only in cases with immediate need. We must remember those vulnerable populations and their risk to appear.” This order considers both the Defendant’s statutory and constitutional rights to a speedy jury trial, and determines that a continuance of trial which supersedes a defendant’s speedy trial right is hereby considered permissible by all judges of the General Division under the Ohio Constitution and O.R.C. 2945.72(H) as a “reasonable continuance granted other than upon the accused’s own motion”. Based upon the foregoing, and for good cause shown, 1) if a trial date has been journalized, the time between the journalized trial date through the day before the next scheduled trial date will not be counted when calculating defendant’s speedy trial time, or 2) if a trial date has not previously been journalized, the time between the date of the last journalized pre-trial, including a video-conferenced or teleconferenced pre-trial, or any other pre-trial hearing through the day before the next scheduled trial date will not be counted when calculating defendant’s speedy trial time.”
  - e. The use of video conference and teleconference as permitted by law for criminal proceedings will continue. If necessary, in-person criminal proceedings will be limited to the number of people that permits the observance of the physical distancing requirement of six feet.
- 8. Civil Jury Trials:
  - a. Jury trials in civil cases will not commence until September 21, 2020. This date will be re-evaluated no later than August 24, 2020.
  - b. The use of video conference and teleconference in civil proceedings will continue. If necessary, in-person court proceedings and in-person chambers proceedings will be limited to the number of people that permits the observance of physical distancing requirements of six feet.
- 9. Bench Trials:
  - a. Bench trials are permitted, however proper protocols must be in place to accommodate social distancing standards for the safety of all parties.
- 10. The effect of this order is retroactive to July 31, 2020, and shall remain in effect until further order of the Court;

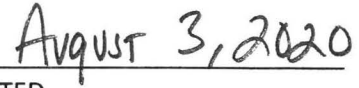
11. This order shall be provided to the Supreme Court of Ohio, Ohio Judicial Conference, Municipal Courts in Cuyahoga County, Cuyahoga County Clerk of Courts, Cuyahoga County Adult Probation Department, Cleveland Metropolitan Bar Association, Cuyahoga County Prosecutor's Office, Cuyahoga County Public Defender's Office, Cuyahoga County Sheriff, Cuyahoga County Board of Health, Cuyahoga County Executive, Cuyahoga County Council, Cuyahoga County Defense Lawyers Association, the website of this Court, and distributed to the media.

IT IS SO ORDERED.

CUYAHOGA COUNTY COMMON PLEAS COURT, GENERAL DIVISION.

A handwritten signature in black ink, appearing to read "Brendan J. Sheehan", written over a horizontal line.

HON. BRENDAN J. SHEEHAN  
ADMINISTRATIVE & PRESIDING JUDGE

A handwritten date "August 3, 2020" in black ink, written over a horizontal line.

DATED