

SANDER KURT

MISC. 700

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SUMMIT COUNTY
COURT OF COMMON PLEAS

**IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
SUMMIT COUNTY, OHIO**

**MISC ORDER
January 28, 2021**

**UPDATED EMERGENCY ORDER IN RESPONSE TO THE COVID-19
PUBLIC HEALTH CRISIS**

JANUARY 28, 2021

Administrative Judge Amy Corrigan Jones, hereby makes the following Findings of Fact:

1. On March 9, 2020, Ohio Governor Mike DeWine issued Executive Order 2020-01D “Declaring a State of Emergency” in response to the growing COVID-19 public health crisis.
2. On March 11, 2020, the World Health Organization officially declared COVID-19 to be a global “pandemic” requiring “urgent and aggressive action” to control the spread of the virus.
3. President Donald Trump proclaimed and declared a state of emergency for the United States of America on March 13, 2020.
4. The Summit County Court of Common Pleas General Division Judges addressed the threat of COVID-19 to the public health in Misc. Order 2020-700, filed on March 13, 2020, and incorporated and referenced herein.
5. On March 13, 2020, all trials were suspended for fourteen days up and through March 27, 2020, with the exception of State vs. Stanley Ford. This timeframe may be extended if deemed necessary and appropriate.
6. On March 13, 2020, the Court ordered that inmates shall not be transported from the Summit County Jail to the Summit County Courthouse for fourteen

days up and through March 27, 2020. This timeframe may be extended if deemed necessary and appropriate.

7. On March 13, 2020, the Court ordered that all criminal matters with incarcerated individuals other than Stanley Ford shall be conducted via video conference in coordination with the Summit County Jail for fourteen days up and through March 27, 2020. This timeframe may be extended if deemed necessary and appropriate.
8. On March 13, 2020, the Court ordered that all civil matters shall be conducted by telephone or video conference for fourteen days up and through March 27, 2020. This timeframe may be extended if deemed necessary and appropriate.
9. On March 13, 2020, the Court ordered that all mediations shall be continued for fourteen days up and through March 27, 2020. This timeframe may be extended if deemed necessary and appropriate.
10. On March 13, 2020, the Court ordered that all probationers shall report via telephone for fourteen days up and through March 27, 2020. This timeframe may be extended if deemed necessary and appropriate.
11. To protect the public health by reducing the spread of COVID-19, Governor DeWine limited public gatherings to less than 50 persons as of March 16, 2020.
12. On March 16, 2020, the President of the United States recommended that public gatherings be restricted to no more than 10 persons.
13. On March 17, 2020, the Ohio Director of Public Health, Amy Acton, M.D. MPH, issued an order in accordance with President Trump's recommendations that public gatherings be restricted to no more than 10 persons.
14. On March 19, 2020, the Court issued Misc. Order 700 enumerating further restrictions in the General Division. That Order is incorporated and referenced herein.

15. On March 20, 2020, the Court issued Misc. Order 700 suspending all Sheriff Sales up and through April 24, 2020. That Order is incorporated and referenced herein.
16. On March 22, 2020, the Ohio Director of Public Health, Amy Acton, M.D. MPH, issued a "Stay at Home" order. That Order is incorporated and referenced herein.
17. Both the United States District Court, Northern District of Ohio and the United States District Court, Southern District of Ohio have issued orders addressing the public health emergency in response to the spread of COVID-19. Those Orders are incorporated and referenced herein.
18. On April 2, 2020, the Ohio Director of Public Health, Amy Acton, M.D. MPH, issued a "Stay at Home" order up and through 11:59 p.m. on May 1, 2020. That Order is incorporated and referenced herein.
19. On April 3, 2020, the Court issued Misc. Order 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.
20. On April 10, 2020, the Court issued Misc. Order 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.
21. On April 27, 2020, Ohio Governor Mike DeWine issued a plan to restart Ohio's economy during the ongoing COVID-19 pandemic. Governor DeWine did not lift or modify Ohio's Stay at Home order currently in effect. That Order is incorporated and referenced herein.
22. On May 4, 2020, certain environments were permitted to reopen if businesses were able to meet mandatory safety requirements for members of the public and employees.
23. Safe practices include requiring face coverings for all employees and recommending them for members of the public at all times, conducting daily assessments, maintaining good hygiene such as social distancing and sanitizing workplaces, and limiting capacity to meet social distancing guidelines.

24. Certain establishments were ordered to remain closed, including schools, daycares, dine-in restaurants, older adult daycares, senior centers, entertainment, recreation and gyms. Large gatherings of more than 10 people were still prohibited.
25. On April 29, 2020, the Court issued Misc. Order 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.
26. Throughout May 2020, Governor DeWine lifted certain restrictions and implemented further recommendations.
27. On May 22, 2020, the United States District Court, Northern District of Ohio issued Misc. Order 2020-08. That Order is incorporated and referenced herein.
28. In Its Order, the United States District Court, Northern District of Ohio addressed the necessity and obligation of the Court to protect the health and safety of the public, court personnel, counsel, litigants, jurors, and all other case participants by implementing a multi-phase recovery plan to gradually resume court operations. The Court acknowledged the necessity to reduce the size of public gatherings necessarily attendant to jury selection, reduce unnecessary travel and ensure effective trial preparation of counsel.

Specifically, the Court indicated that:

“Throughout all phases of recovery, to the extent possible, the Court will protect the vulnerable: 1) People 65 years or older; and 2) people of all ages with underlying medical conditions, particularly if not well-controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, or chronic kidney or liver disease.

Reasonable accommodations will be provided wherever possible for individuals and employees who: 1) are vulnerable individuals; 2) are caring for vulnerable individuals in their households; 3) rely solely on public

transportation; and 4) have child care issues due to the closure of schools and/or daycare centers due to COVID-19.

The Court recognizes that jury selection in this District involves large jury venire pools. These pools often consist of many 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. Further, it will be a challenge to provide for jury trials while abiding by necessary precautions to reduce the possibility of exposure to the disease. Additionally, attorneys are severely limited, or in some cases prohibited, from physical visitation of detained clients for purposes of consultation and trial preparation.”

29. On May 28, 2020, the Court issued Misc. Order 2020 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.

30. On July 13, 2020, Chief Justice Maureen O’Connor issued an email to judges across the State of Ohio stating,

“that on June 17, 2020, the U.S. Department of Housing & Urban Development extended the CARES Act moratorium on foreclosure filings in connection with the COVID-19 national emergency until August 31, 2020.”

Chief Justice O’Connor further stated,

“We must appreciate that courts are not businesses like stores, restaurants, or salons. When people come into our courthouses, they most often are not doing so by choice but instead, they are appearing because they have been summoned to appear either as a party to a case, as a witness, or as a juror. As such, we must be cautious about who we require to appear, and we should require an in-person appearance only in cases with immediate need. We must remember those vulnerable populations and their risk to appear.

In the event you do have members of the public in your courthouse, please consider how you can conduct business consistent with Governor DeWine’s and the Director of Public Health’s latest orders. Safety means requiring staff and the public alike to have their temperature taken at the door, wear face coverings, make hand sanitizer readily available in multiple locations, following social distancing for both common areas and courtrooms, thorough cleaning after each in-person court event and granting continuances for jury trials.”

31. On July 23, 2020, the Interim Ohio Director of Public Health, Lance D. Himes, issued a “Director’s Order for Facial Coverings throughout the State of Ohio”. That Order is incorporated and referenced herein.

32. On July 23, 2020, Governor Mike Dewine issued a travel advisory stating, “All individuals coming into Ohio from states reporting positive COVID-19 testing rates of 15 percent or higher.

Those traveling from one of the following states should self-quarantine for 14 days at home or in a hotel.

- Alabama
- Arizona
- Florida
- Georgia
- Idaho
- Mississippi
- Nevada
- South Carolina
- Texas

The self-quarantine recommendation applies to those who live in Ohio and to people who are traveling into Ohio from any of these states.”

33. The State of Ohio has been designated by surrounding state governments as a location that if entering from, an individual must self-quarantine for fourteen days.

34. On July 27, 2020, Akron Public Schools Board of Education voted to

begin the school year remotely. Akron Public Schools Superintendent David W. James, Ed.D., stated,

“We have studied and researched. We have followed guidance from all of the experts locally, regionally, statewide and nationally. We have also met with and discussed plans with other Ohio schools large and small. It is our belief this is the best way to begin; the safest way for the greatest number of students and staff.”

35. On July 28, 2020, the United States District Court, Northern District of Ohio issued Misc. Order 2020-08. That Order is incorporated and referenced herein.
36. Chief Judge Patricia A. Gaughan ordered that all courthouses of the United States District Court for the Northern District of Ohio shall be closed to the public until further notice. Only persons having official business authorized by the Order, the Chief Judge or a Presiding Judge.
37. Chief Judge Patricia A. Gaughan ordered that jury trials will not commence any earlier than September 21, 2020.
38. Chief Judge Patricia A. Gaughan stated,

“Jury trials during the pandemic present unique challenges. The Court recognizes that jury selection in this District involves large jury venire pools. These pools often consist of many 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. Further, it will be a challenge to provide for jury trials while abiding by necessary precautions to reduce the possibility of exposure to the disease, not only to jurors but to other trial participants as well. Jury trials particularly present a challenge to attorneys who must continuously communicate with clients during the course of a trial.”

39. On July 29, 2020, the Court issued Misc. Order 2020 700 enumerating further public health protections in the General Division. That Order is

incorporated and referenced herein.

40. On July 31, 2020, the Ohio Supreme Court issued the following Administrative Order regarding the use of technology and remote administration of oaths and affirmations:

“NOW THEREFORE, the Court hereby orders the following:

(A) This order shall apply retroactively to the date of the emergency declared by Executive Order 2020-01D and shall remain in effect until further order of the Court.

(C)(1) Any requirement in a rule of the Court that a party appear in person or requiring in-person service may be waived by the Court, local court, hearing panel, board, or commission, as applicable. Appearance, service, or oral argument by use of technology shall be allowed if it sufficiently guarantees the integrity of the proceedings and protects the parties’ interests and rights.

*2 (2) Proceedings for which the personal appearance of a party may be waived include, but are not limited to, the following:

(a) Arraignments pursuant to Crim.R. 10;

(b) Pleas pursuant to Crim.R. 11;

(c) The issuance of a warrant pursuant to Crim.R. 41;

(d) Oral arguments pursuant to App.R. 21, provided nothing in this order shall deny a party oral argument when properly requested;

(e) Arraignments pursuant to Traf.R. 8.

(D) Any oath or an affirmation required by a rule of the Court may be administered remotely by use of audio or video communication technology, provided the technology shall allow the person administering the oath or affirmation to positively identify the person taking the oath or making the affirmation.”

41. On September 3, 2020, the Court issued Misc. Order 2020 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.

42. On October 1, 2020, the Court issued Misc. Order 2020 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.
43. On November 6, 2020, the Court issued Misc. Order 2020 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.
44. On December 9, 2020, the General Division Judges were notified that a trustee inmate in the Summit County Jail exhibited symptoms and tested positive for Covid-19.
45. On December 10, 2020, Chief Justice Maureen O'Connor issued additional statewide guidance to Ohio courts, indicating:

“Courts must operate with a strong presumption toward remote proceedings. Courts will leverage technology to conduct all trials and proceedings remotely to the extent possible, including but not limited to jury trials, bench trials, oral arguments, pre-trials, status conferences, evidentiary hearings, motion hearings, or any other similar hearings.

If a trial cannot be held remotely, judges should liberally grant continuances. In criminal preliminary hearings and jury trials, a judge may grant a continuance under R.C. 2945.72(H), citing the COVID-19 pandemic as the basis. For additional information regarding the continuance of criminal jury trials, please consult AG Opinion 2020-002.”

46. On December 11, 2020, an additional 31 inmates in the Summit county Jail were diagnosed with Covid-19.
47. On December 31, 2020, the Court issued Misc. Order 2020 700 enumerating further public health protections in the General Division. That Order is incorporated and referenced herein.

The Court has considered the guidance and orders of the World Health Organization, the Governor of Ohio, the President of the United States, the United States District Courts, the Chief Justice of the Ohio Supreme Court,

Centers for Disease Control and Prevention, and local public health authorities to effectuate the public health goals and to serve the public.

In response to the public health emergency, recognizing current testing continues to be insufficient/limited in Summit County, further analyzing factors identified by the United States District Court, Northern District of Ohio, recognizing this Court's obligation to protect our community for those ordered to appear in the General Division, to reduce the substantial health risks to the community, to maintain essential court functions, and to continue to protect the rights of all individuals subject to the authority of the Court,

IT IS HEREBY ORDERED:

1. All individuals entering the building shall be subject to having his/her temperature taken. No one exhibiting signs of illness, including, but not limited to, a temperature of 100.4 degrees shall be admitted or permitted to remain on the premises. This provision may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
2. All individuals entering the building shall wear a mask and shall wear a mask while present in any courtroom, public space, conference room, or other space that is considered to be confined, as determined by the Administrative Judge. This requirement applies at all times, including, but not limited to, all jury trials.

Individuals seeking entrance to the building without a mask will be asked to contact the Court Executive Office by telephone to discuss alternatives to entering the courthouse.

This provision may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.

3. The General Division and all individuals herein shall continue to function under current physical distancing protocols as ordered by the Governor of Ohio and should the Governor order further protective protocols, all individuals within the courthouse shall abide by said protocols, including but not limited to, 6 feet distance separation at all times, including jury trials, with no exceptions. This provision may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
4. Ohio Revised Code § 2945.72 (H) provides in pertinent part that: the time within which an accused must be brought to trial, or, in the case of felony, to preliminary hearing and trial, may be extended ** the period of any reasonable continuance granted other than upon the accused's own motion.

The 9th District Court of Appeals has held that a trial court may continue a trial date without violating a defendant's right to a speedy trial if the purpose and length of the continuance are reasonable. *State v. Brewer*, 2016 Ohio 5366.

The current public health emergency and the aforementioned findings of fact that are referenced and incorporated herein are reasonable for continuances deemed necessary by assigned Judges on a case-by-case basis.

5. All criminal trials are suspended through April 2, 2021, unless authorized by the Administrative Judge. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
 - a. In the event that a criminal trial must proceed, a maximum of forty (40) jurors, unless a number exceeding forty (40) is authorized by the Administrative Judge, shall report directly to the Ceremonial Courtroom and all trials will commence in the Ceremonial Courtroom pursuant to the following schedule, with no scheduling modifications:

Judge Alison McCarty – Mondays 8:30 a.m.;

Judge Mary Margaret Rowlands – Mondays 1:00 p.m.;

Judge Christine Croce – Tuesdays 8:30 a.m.;

Judge Susan Baker Ross – Tuesdays 1:00 p.m.;
Judge Tammy O'Brien – Wednesdays 8:30 a.m.;
Judge Alison Breaux – Wednesdays 1:00 p.m.;
Judge Joy Malek Oldfield – Thursdays 8:30 a.m.;
Judge Kathryn Michael – Thursdays 1:00 p.m.;
Judge Amy Corrigan Jones – Fridays 8:30 a.m.;
Judge Kelly McLaughlin – Fridays 1:00 p.m.

- i. Each judge shall have 3 hours to conduct and complete voir dire in the Ceremonial Courtroom.
 - ii. The General Division has issued procedures for jury trials and all trials shall be conducted in accordance with the identified procedures.
 - iii. Once the individual judge swears in the jury during her allotted time frame, the individual judge and staff shall direct jurors to her individual courtroom to proceed with the remainder of trial. All protective protocols and orders outlined herein shall be adhered to at all times, with no exceptions, including, but not limited to, masks and 6 feet distance separation.
 - iv. All General Division areas, courtrooms, restrooms and elevators shall be regularly disinfected immediately prior to and after each voir dire session; after each morning session, regularly between witness testimony and at the end of each daily session.
 - v. Hand sanitizer and disinfectant shall be readily available and accessible in all courtrooms, common areas, restrooms, elevators and any other area utilized by the community.
 - vi. The visiting judge courtroom will be designated as a viewing room and all safety protocols referenced herein shall be adhered to at all times.
6. Other than for trial purposes outlined above and incorporated herein, inmates shall not be transported from the Summit County Jail to the Summit County Courthouse through April 2, 2021, unless authorized by the Administrative Judge. This provision and timeframe may be modified

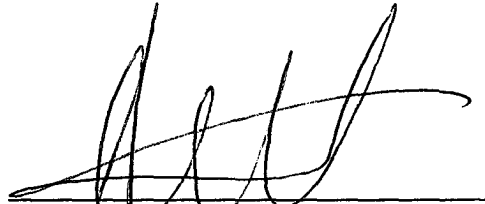
or extended at anytime, if deemed necessary and appropriate to address public safety concerns.

7. All civil trials are suspended through April 2, 2021, unless authorized by the Administrative Judge. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
8. All scheduled criminal matters other than those addressed in Paragraph #5 above and incorporated herein, shall continue to be conducted via video/telephone conference, unless the Defendant refuses to waive her/his personal appearance AND the in-person criminal matter is authorized by the Administrative Judge, through April 2, 2021. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
9. All civil matters, including mediations, shall continue to be conducted via video/telephone conference, unless authorized by the Administrative Judge, through April 2, 2021. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
10. Other than outlined above and incorporated herein, no in person appearance shall be conducted by any judge, attorney or party, without prior approval by the Administrative Judge, through April 2, 2021. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
11. All probationers shall report via telephone/video conference, unless authorized by the Administrative Judge, though April 2, 2021. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
12. Employees will continue the current remote work setting until such time as they are required to report to the courthouse. It is the goal that the remote work setting will be gradually modified, as appropriate.

13. All arraignments shall be conducted via video conference through April 2, 2021, unless:
 - a. As otherwise ordered by the Administrative Judge; or
 - b. As determined by the Administrative Judge as necessary and appropriate; or
 - c. Defendant and counsel have made arrangements as authorized by the Administrative Judge for an alternative hearing.
 - d. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
14. All visitation with any inmate at the Summit County Jail shall be conducted via video/telephone conference through April 2, 2021, unless authorized by the Administrative Judge. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
15. Sheriff sales may proceed online, unless authorized by the Administrative Judge. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
16. All foreclosures, evictions and any judgment relating to real and personal property may be authorized by the individual assigned judge, unless prohibited by law. This provision may be modified at anytime, if deemed necessary and appropriate to address public safety concerns.
17. Other than outlined above and incorporated herein, at no time in the General Division shall there be more than 10 individuals in any courtroom, office, conference room, or other space that is considered to be confined, as determined by the Administrative Judge. The only exception shall be for purposes of a Judge's meeting, if approved by a majority of the judges. This provision and timeframe may be modified or extended at anytime, if deemed necessary and appropriate to address public safety concerns.
18. This Order supercedes all previously issued orders.

19. The General Division shall continue to have the lawful authority, within constitutional limits, to do and direct to be done all things necessary to ensure the orderly and efficient administration of justice for the duration of the declared public health emergency.

IT IS SO ORDERED.



**AMY CORRIGALL JONES
ADMINISTRATIVE JUDGE
GENERAL DIVISION**