

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) JOURNAL ENTRY
OPERATIONS AND JURY TRIALS)
DUE TO COVID-19 PANDEMIC)

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;

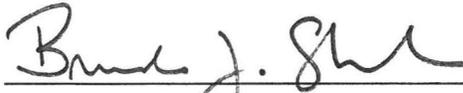
IT IS THEREFORE ORDERED:

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:

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.



HON. BRENDAN J. SHEEHAN
ADMINISTRATIVE & PRESIDING JUDGE

August 3, 2020
DATED