

FILED BY: MARY JO DEPRETA
2020 MAR 19 AM 11:51

MARY JO DEPRETA
CLERK AND REGISTER

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA

IN RE: THIRTY-FIFTH JUDICIAL DISTRICT :

EMERGENCY OPERATIONS :

:
:
:

No. 2020 - AD-5

ADMINISTRATIVE ORDER

AND NOW, this 19th day of March, 2020, the Pennsylvania Supreme Court having issued an Order dated March 18, 2020, directing that all Pennsylvania Courts, including the Mercer County Court of Common Pleas and Magisterial District Courts, be generally closed to the public beginning at the close of business today and lasting at least through April 3, 2020, subject to general and specific directives and exceptions, this Court enters the following Order in response to the Supreme Court's Order:

I. General Considerations:

1. All of Mercer County Court of Common Pleas employees shall abide by the Supreme Court's Order, which is incorporated herein by reference.
2. On March 17, 2020, this Court issued a directive to all Mercer County Court personnel, which is attached hereto. To the extent

any directive has not been modified or superseded by the Supreme Court Order those directives remain in full force and effect.

3. All Mercer County Court facilities shall be closed to the public as to non-essential functions through at least April 3, 2020.

4. In all events, any legal papers or pleadings which are required to be filed between March 19, 2020 through April 3, 2020, shall be deemed to have been timely filed if they are filed by April 6, 2020 or on a later date as permitted by the Appellate Courts or by this Court upon consideration of the potential volume of such filings.

5. Use of advanced communication technology to conduct court proceedings is specifically authorized and encouraged in all departments subject only to constitutional limitations.

6. To the greatest extent possible any interaction between court personnel and anyone else involved in the proceeding shall be undertaken consistent with federal guidance including that provided by the Centers for Disease Control and Prevention such as social distancing, the disinfection of surfaces, the wearing of face masks by an infected person, and by other means as set forth in this Court's directive of March 17, 2020.

II. Courts of Common Pleas

1. Mercer County Court facilities shall be closed to the public as to non-essential functions through at least April 3, 2020. Essential functions per the Supreme Court Order include:

- a. Emergency bail review and habeas corpus hearings;
- b. Gagnon 1 hearings;
- c. Bench warrant hearings pursuant to Rule of Criminal Procedure 150;
- d. Juvenile delinquency detention;
- e. Juvenile emergency shelter and detention hearings;
- f. Temporary protection from abuse hearings;
- g. Emergency petitions for child custody or pursuant to any provision of the Juvenile Act;
- h. Emergency Petitions for guardianship;
- i. Civil mental health reviews, see 50 P.S. §7302;
- j. Emergency equity civil matters (injunctions and stays);
- k. Any pleading or motion relating to public health concerns and involving immediate and irreparable harms;
- l. Any other function deemed by a President Judge to be essential consistent with constitutional requirements as follows:

A. Criminal Courts

- i. Sentencing for defendants currently incarcerated, giving priority to defendants with health issues;
- ii. Guilty pleas, conferences, and related activities to criminal cases that are complicated in nature or may be compromised by the passage of time;
- iii. Gagnon 2 hearings;
- iv. Bench warrants and search warrants.

Any of these matters shall be conducted by advanced communication technology to the greatest extent possible subject only to constitutional limitations.

B. Family Law Courts and DRS

- i. Conferences and hearings for support, custody, equitable distribution, and divorce scheduled at the DRS offices will continue. However, they shall be conducted by advanced technology ONLY. If such conference or hearing cannot adequately be addressed by advanced communication and

technology that matter shall be postponed and rescheduled.

ii. Non-support contempt hearings.

iii. Final protection from abuse hearings and protection from abuse contempt hearings.

C. Miscellaneous

i. Involuntary civil commitment hearings or reviews will continue as scheduled at the health care facility hearing site and/or public defender's office as the case may be, again using advanced communication technology to the greatest extent possible.

III. Magisterial District Courts

1. All Magisterial District Courts in Mercer County shall be closed to the public except for essential functions. Those essential functions include the following:

- a. Preliminary arraignments (bail settings) for bailable cases;
- b. Criminal case filings and subsequent processing;
- c. Preliminary hearings for incarcerated persons only;
- d. Issuance of search warrants;

- e. Emergency protection from abuse petitions;
- f. Any other function deemed by a President Judge to be essential consistent with constitutional limitations.

2. The Magisterial District Courts office staff in conjunction with Mercer County MIS office shall work together to set up the advanced video technology system so that the Magisterial District offices can hold conferences with inmates at the Mercer County Jail.

Magisterial District Courts in Mercer County shall maintain the following schedule for preliminary hearings:

- a. Monday morning preliminary hearings will be held at Magisterial District 3-1 (Judge Davis).
- b. Tuesday morning hearings shall be held at Magisterial District 2-1 (Judge Songer).
- c. Tuesday afternoon hearings shall be held at Magisterial District 3-3 (Judge Arthur).
- d. Wednesday morning preliminary hearings shall be held in at Magisterial District 3-2 (Judge McEwen).
- e. Wednesday afternoon hearings shall be held at Magisterial District 2-2 (Judge Odem).

Advanced communication technology shall be used to complete as many of these functions as practical consistent with constitutional limitations. All other cases are postponed.

Payments rendered to the Magisterial District Courts shall not be made in person but may be accepted by mail, electronically (online), or by telephone as may be permissible in the Magisterial District Court receiving the payment.

In the event any scheduled payment is missed or default of a payment plan previously imposed by the Courts, the Magisterial District Courts shall issue a hearing notice scheduling a payment determination hearing to be held after April 3, 2020 or such date as may be subsequently specified. Such missed payment or default SHALL NOT result in the issuance of an arrest warrant for failure to make payment nor shall the non-payment result in driving privileges being suspended prior to such hearing.

IV. Miscellaneous

1. Unless otherwise required herein, any in-person pretrial conference, case management conference, status conference, diversionary program, discovery motions practice, motions practice or other hearing, whether civil or criminal, is hereby postponed until a future

date to be set forth by the courts. To the extent that such matters may be handled through advanced communication technology consistent with constitutional limitations, THEY MAY AND SHOULD PROCEED.

2. Any document to be filed in the Prothonotary's Office or the Clerk of Courts/Register of Wills shall not be done in person. Filing shall be made in accordance with the alternative procedures established by these offices.

3. This Order shall be posted on the Court and County websites and disseminated to all Judges, Magisterial District Judges, Court related departments and court staff, the Mercer County Bar Association, and to the general public.

BY THE COURT:



Robert G. Yeatts, President Judge P.J.

lak




JUDGES' CHAMBERS
COURT OF COMMON PLEAS
MERCER COUNTY
MERCER, PENNSYLVANIA 16137

ROBERT G. YEATTS
PRESIDENT JUDGE

TELEPHONE
(724) 662-3800 x2521
FAX
(724) 662-7524

MEMORANDUM

TO: Daniel P. Wallace, Judge
Tedd C. Nesbit, Judge
Ronald D. Amrhein, Judge
Brian Arthur, Magisterial District Judge
D. Neil McEwen, Magisterial District Judge
Dennis Songer, Magisterial District Judge
Mary Odem, Magisterial District Judge
Daniel Davis, Magisterial District Judge
Court related Departments and Court Staff
Mercer County Bar Association

FROM: Robert G. Yeatts, President Judge 

DATE: March 17, 2020

RE: Public Health Emergency Response/Courts

Effective immediately and until further notice, to protect Court employees from being exposed to health threatening conditions and, therefore, reducing the chance of exposing colleagues and members of the public, the Court adopts the following policy:

I. General Procedures

1. Any employee who believes he/she may have been exposed to the coronavirus must report the potential exposure to his/her supervisor or department head/Judge immediately. Upon report of the incident, the supervisor or department head/Judge will provide Court Administration with the details of potential exposure. Reported incidents will be responded to on a case by case basis.

2. Employees who have symptoms of acute, respiratory illness are required to stay home and not come to work until they are free of fever, signs of fever, or any other symptoms for at least 24 hours without the use of fever reducing or other symptom altering medications. Signs and symptoms generally include combinations of the following: coughing, sneezing, other respiratory symptoms, fever, sweating, chills, muscle aches, weakness, and malaise.

3. The Court reserves the right to require self-isolation of an employee in appropriate circumstances (e.g. travel to foreign country) even absent outward symptoms.

4. Employees who appear to have acute respiratory illness symptoms upon arrival to work or become sick during the work day, shall be separated from other employees and be sent home immediately. Work areas should be thoroughly cleaned with an EPA approved disinfectant on a routine basis. Areas to consider are work stations, phones, fax machines, copiers, break rooms, and other common objects or areas.

5. Employees may be asked to work remotely for a period of time after being exposed. This period will be in accordance with federal, state, and/or local health guidelines. We will adhere to the guidance of the public health authorities.

6. Employees may be required to provide a medical note releasing them to return to work.

II. Court Scheduling and Related Matters

As of today, March 17, 2020, the 35th Judicial District, unless noted below, remains open and operational. We are continuing to rely upon the guidance of the Administrative Office of Pennsylvania Courts and federal, state, and local health departments both to limit potential exposure and fulfill our responsibility to the citizens of Mercer County by keeping our services available.

1. All Judges when reasonably possible shall do the following:

a. Utilize and encourage litigants to utilize to the fullest extent available telephonic/video/audio services and other advanced communication technology to reduce personal appearances for hearings, trials, meetings, conferences, and similar proceedings or gatherings.

b. Stagger court appearance times to reduce crowding. Require people to spread out in the courtroom. Prop doors open to avoid necessity of handles or knobs being touched.

c. Limit meetings, conferences, and other gatherings to essential participants and arrange seating to avoid unnecessary close personal contact.

d. Develop the capability to work remotely from the court facility with assistance if necessary from Mercer County MIS.

- i. For jury trials, utilize only 1 alternate.
 - ii. Discuss with litigants the possibility of utilizing less than the maximum number of jurors in civil cases.
- e. Other than the modifications described above Judges shall schedule and conduct hearings and trials in essentially the same manner they were scheduled and conducted before the outbreak of coronavirus.

2. The Mercer County Sheriff's Deputies and Mercer County Constables are hereby authorized and directed to decline transportation of prisoners from any prison/jail despite a valid transportation order if, using his/her reasonable discretion, the prisoner to be transported appears to be sick or may have recently (within the last 14 days) been in contact with someone who is positive for coronavirus. Any Sheriff Deputy or Constable declining transportation on this basis shall immediately contact the appropriate Judge involved in the subject case.

Similarly, any Mercer County Sheriff Deputies, Constables, or Juvenile Probation Officer (JPO) ordered to transport any juvenile from a juvenile detention facility placement or other place of detainment are hereby authorized and directed to decline transportation of said juvenile from any juvenile detention facility placement or other place of detainment despite a valid transportation order if, using his/her reasonable discretion, the juvenile to be transported appears to be sick or may have recently (within the last 14 days) been in contact with someone who is positive for coronavirus. Any Sheriff Deputy, Constable, or JPO declining transportation on this basis shall immediately contact the appropriate Judge involved in the subject case.

Transportation of incarcerated/detained out of county witnesses, criminal defendants, juvenile defendants, or similar persons for all Mercer County trials, hearings, or other proceedings shall be avoided if such persons may adequately participate by telephonic/video/audio devices and other advance communication technology.

3. The Mercer County Court Administrator shall do the following:
 - a. Arrange to limit the number of jurors coming into the courthouse at 50 per time, or in the alternative, to limit no more than 50 in one location by using a second large room such as an accessible courtroom. Seating for prospective jurors shall be staggered, if possible, to reduce juror crowding.
 - b. Judges of Mercer County Common Pleas are hereby authorized to order civil litigants to participate in mandatory mediation with mediation costs shared by the parties.

4. The Mercer County Bar Association is hereby requested to assist civil trial Judges locating and utilizing such mediators.

5. All Mercer County Judges, court related department heads, and Magisterial District Judges are to be vigilant about proactively requiring employees who appear to be sick or may have recently (within the last 14 days) been in contact with someone who is positive for coronavirus to stay home.

6. Court employees will not attend off site conferences or trainings. Court events/meetings (as distinguished from court hearings, conferences, etc.) will be rescheduled or held virtually. When possible use email and electronic mediums to create, file and transmit documents and court orders. Limit the number of persons in chambers and other meeting/conference rooms to comply with social distancing recommendations.

7. Scheduling of larger court lists such as arraignment and call of the list will be staggered by the hour or location to avoid larger groups of litigants and attorneys in the courtroom. Scheduling will be adjusted starting as soon as possible.

a. Until further notice, each month's criminal call of the list shall be divided among the four courtrooms to lessen the number of people in one place and to allow spacing between individuals. One half of the April call of the list will be handled by courtrooms 1 and 3 and one half will be handled by courtrooms 2 and 4. The Judges shall determine the number of cases in each courtroom. To the extent possible this division of cases shall be provided to the Court Administrator who can post the same prior to the commencement of call of the list.

8. Waivers of arraignment will be accepted up to and including the day scheduled for formal arraignment. Defendants who execute and file such waivers need not attend court on that date. Those who will be entered into the ARD program or who will enter a plea at that time must attend.

9. Gagnon and parole violation hearings for those in custody shall be conducted by advanced communication and technology to the greatest extent possible.

10. DRS establishment and modification conferences may be held by telephone provided that the parties comply with document presentation requirements prior to the conference as required and in the manner determined by the director of DRS.

11. The Community Service Director shall continue to assign defendants to work sites taking into consideration the need to limit that number of individuals at any one place. Should the lack of available work sites be the primary reason for the defendant's failure to timely complete his/her community service. The Court can consider alternates, including but not limited to, extended time periods for completion of community service, reducing the number of hours of community service, or waiving the community service requirement altogether.

III. Miscellaneous

1. Any party required to attend a scheduled court proceeding or who is visiting the court facility to access a filing office is encouraged to arrive alone or in smaller groups, if possible, in an effort to decrease the possible spread of the virus. Subject to constitutional consideration, the Court may at its discretion order any non-party from the courtroom to help with social distancing. Parties and visitors are encouraged to stay home if you are feeling sick. Any party under court order to appear for a proceeding of any type but is not feeling well should make a reasonable attempt to notify Court Administration at (724) 662-3800 ext. 2517, of their illness. Those individuals who are represented by an attorney should ask their attorney to notify the Court of your condition and ask that you be excused in advance or that you be permitted to appear via alternate methods such as a video or telephone. Each case will be decided by the Court on a case by case basis.

2. All visitors and parties are encouraged to practice good hygiene when in a court facility and refrain from shaking hands or other forms of physical contact. Use other non-contact methods of greeting. Wash your hands or use hand sanitizer on regular intervals. Create habits and reminders to avoid touching faces and cover coughs and sneezes.

NOTE: It is anticipated that as more information becomes available these procedures set forth above shall be eliminated, amended, and/or supplemented.