

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

FILED

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In re: 56th Judicial District - Declaration :
of Judicial Emergency : NO. 55 MM 2020

CARBON COUNTY
PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
56th JUDICIAL DISTRICT

In re: 56th Judicial District - Declaration :
of Judicial Emergency : NO. CP-13-AD-002-2020 Clerk of Courts
: 20-0575 Prothonotary
: 20-9103 Register of Wills/Orphans Court

NINTH AMENDED ADMINISTRATIVE ORDER NO. 6-2020

AND NOW, this 18th day of December, 2020, recognizing that the circumstances which necessitated the Eighth Amended Administrative Order dated November 23, 2020, have been largely resolved and no longer require the shutdown of in-court proceedings generally, while at the same time recognizing that the number and incidents of Covid-19 being reported for the Commonwealth of Pennsylvania, and in particular for Carbon County, is growing and requires that continued measures remain in place to ensure the health and safety of court personnel, court users and members of the public, pursuant to the authority granted in the Pennsylvania Supreme Court's *per curiam* order dated May 27, 2020, and in accordance with the exercise of emergency powers under Rule of Judicial Administration 1952(B)(2), it is hereby

ORDERED and DECREED that the Eighth Amended Administrative Order No.6-2020 is terminated, effective immediately, and that the Court of Common Pleas and the Magisterial District Courts in this Judicial District shall generally be open to conduct all court business, unless otherwise specified herein, and subject to the limitations and restrictions provided herein.

Jury Trials

1. Consistent with prevailing health and safety norms, including the need to maintain social distancing, *voir dire* and the conducting of jury trials, both criminal and civil, shall be held only in Courtroom No.1 of the Carbon County Courthouse, and such other locations as may become available and are determined by the Court to be suitable for the conducting of jury trials. For this reason, at this time, a limited number of jury trials will be able to be held each term.

By Administrative Order No. 18–2020, dated December 4, 2020, criminal jury trials originally scheduled for the week of December 7, 2020, and which previously had been re-scheduled to be held during the week of January 11, 2021, were further continued and re-scheduled for the week of February 1, 2021, with the Call of the List to be held in Courtroom No.1 on Monday, January 25, 2021, at staggered times commencing at 9:00 A.M. for those cases scheduled before Judge Nanovic; commencing at 10:30 A.M. for those cases scheduled before Judge Serfass; and commencing at 1:15 P.M. for those cases scheduled before Judge Matika. At this time, no further changes are being made in this scheduling.

As further provided in the December 4, 2020, Administrative Order, no later than January 25, 2021, by 9:00 A.M., after first confirming with defense counsel, the District Attorney shall provide the Court with a list of no less than six cases for the February term of Court which are ready for trial and for which it is reasonably anticipated a jury trial will be necessary to resolve the matter. In the preparation of this list, priority shall be given to those cases for which charges have been pending the longest.

Also, as previously provided in the Administrative Order dated December 4, 2020, those criminal status conferences scheduled for the mornings of January 18, 19 and 21, 2021, have been continued and rescheduled for the mornings of March 15, 16, and 18, 2021, respectively.

In-Person Proceedings

2. As previously stated in this order, the Court of Common Pleas and the Magisterial District Courts in the 56th Judicial District shall generally be open to conduct all court business. This includes not only all preliminary hearings and other civil and criminal matters before the Magisterial District Courts, but also all criminal, civil, and miscellaneous matters before the Court of Common Pleas, as well as divorce, custody, and support conferences/hearings before the Masters and Conference Officers of this Court. In conducting such matters, however, the Court of Common Pleas, Magisterial District Courts and Master/Conference Officers shall exercise their discretion in staggering the scheduled time for such events and limit the number of persons present to ensure social distancing and compliance with any lawful limitations imposed on the number of persons able to be present at such events. This includes Management Conferences before the Court of Common Pleas which shall be scheduled in half-hour time slots. Additionally, in accordance with the general directives contained later in this order, the use of advanced communication technology to conduct such proceedings is encouraged.

3. Unless otherwise directed, all in-person criminal pleas, sentences and hearings to consider ARD applications to be held before the Court of Common Pleas shall be scheduled to be held in Courtroom No. 1 of the Carbon County Courthouse at one of

the following staggered times: 9:00 A.M., 10:00 A.M., 11:00 A.M., 1:15 P.M., 2:15 P.M. and 3:15 P.M. Where a defendant is incarcerated, defendants are encouraged to allow such proceedings to be conducted by advanced communication technology with all required paperwork (*i.e.*, written waiver of in-person attendance, written guilty plea colloquy, and notification of post-sentencing rights) to be completed in advance of the proceeding and made available at the time of the proceeding. Court Administration is directed to make every reasonable effort to arrange such pleas, sentencings and hearings on applications for ARD dispositions where the defendant is incarcerated by use of advanced communication technology. Due to the continuing danger of spreading COVID-19 between prisons and correctional facilities, requests for transportation of defendants from state correctional institutions or out-of-county prisons to the Carbon County Prison for defendants to appear in person in open court may not be able to be accommodated. All pleas, sentencings, ARDs, Gagnon proceedings, and bench trials continued by the December 4, 2020 Administrative Order have been continued and shall, if not yet completed, be re-scheduled as provided for in that order.

4. At all proceedings and hearings before a Court of Common Pleas Judge, Magisterial District Judge, Custody Hearing Officer, or Support Master - including all proceedings where criminal pleas are received, sentences are imposed and action is taken on pending ARD applications - at which parties, their counsel, victims, advocates, or witnesses appear in person, all such persons will be required to wear masks during the proceeding (unless a medical condition of which the Court has been informed prevents the wearing of a mask and the presiding judicial officer excuses this requirement) and social distancing of at least six feet will be enforced. Excluding those proceedings

involving a right to public and press access, no non-essential visitors, including children, shall be permitted to be present at such proceedings. With respect to those proceedings open to the public and press, provision shall be made to ensure some reasonable means of access. Nor shall anyone be permitted to attend in person who has been directed to quarantine, isolate or self-monitor at home for COVID-19 by a doctor, hospital or health agency, or anyone who has been diagnosed with or within the most recent fourteen-day period has had close contact with anyone diagnosed with COVID-19, or anyone who exhibits flu-like symptoms.

General Directives

5. The use of advanced communication technology to conduct court business and proceedings that are not otherwise required by constitutional limitations to be conducted in person is encouraged and will be so scheduled in accordance with the directives of the presiding judicial officer to the extent the same can be done effectively and efficiently. To the extent constitutional limitations would otherwise prohibit remote participation, parties making a knowing, voluntary and intelligent waiver of such prohibition, may waive this requirement at the discretion of the presiding officer.

6. Attorneys, litigants, other court participants, and members of the public shall be directed where to sit during court proceedings and scheduling may be staggered at the discretion of the Court in order to promote social distancing. To the extent possible and not inconsistent with the scheduling of Court proceedings as provided for in this Order, it is directed that all persons identified in the preceding sentence follow federal and state guidelines, including those provided by the Centers for Disease Control and Prevention and the Pennsylvania Department of Health, including but not limited to mask

wearing, hand washing and sanitizing. The Court has requested the County to arrange for its cleaning staff or maintenance to disinfect surfaces in court facilities consistent with federal guidelines, including those provided by the Centers for Disease Control and Prevention.

7. The Carbon County Sheriff and his deputies, as well as constables providing security at Court Facilities, are hereby authorized to prevent the entry of any person into Court Facilities who appears to be sick or may have recently (within the last 14 days) been in contact with someone who is positive for coronavirus. The Magisterial District Judges and their staffs are similarly authorized to decline the entry of any person into their court facilities who appears to be sick or may have recently (within the last 14 days) been in contact with someone who is positive for coronavirus.

8. In order to limit the number of people entering court facilities and from having contact with court staff and county agency staff, non-emergency filings in or payments to the Clerk of Court's Office and Bureau of Collections, Prothonotary's Office, Register of Wills and Orphan's Court Office, Juvenile Probation Office, and Public Defender's Office located at the Carbon County Courthouse, and in the Domestic Relations Office, Elections Bureau and Children & Youth Office located at 76 Susquehanna Street, Jim Thorpe, shall be deposited in separately marked boxes or other receptacles provided for these purposes located by the security desk in the lobbies of the Carbon County Courthouse and at 76 Susquehanna Street, respectively, with the Elected Officials/Executive Directors, or their staff, of such offices to retrieve the documents so deposited in intervals of no greater than every thirty minutes in order to ensure that all such documents or payments made are timely recorded and processed on the date

deposited. An additional box or receptacle for miscellaneous court filings in any other office other than those named above, will also be located by the security desk in the lobby of the Carbon County Courthouse to be used to deposit documents for filing in any such other office.

In the event any such filing involves an emergency matter requiring immediate attention or in the event the prospective filer needs to pick up a form for immediate filing (*e.g.*, Petition for Protection from Abuse), this shall be brought to the attention of the attendant at the security desk who will either directly telephone or advise the filing party how to contact the filing office by telephone in order to confirm the emergency nature of the filing and/or to arrange for a representative of such office to retrieve the document and/or to assist the filer with the filing. If any copies of filed documents are requested to be time stamped and returned to the filer, such copies shall accompany the original document to be filed together with a self- addressed, stamped envelope.

All deposited documents must include appropriate filing fees. All such payments shall be made by check or money order; U.S. Currency shall not be used. All payments made in-person for deposit to the Domestic Relations Office shall be made by check payable to "Pa. State Collections and Disbursement Unit" or money order payable to "Carbon County Domestic Relations"; U.S. Currency shall not be used. All payments made for deposit to the Bureau of Collections shall be made online or by mail. With respect to any bail amounts to be deposited with the Clerk of Court's Office, payment shall be made by cashier's check, certified check or money order (no personal checks) payable to the Carbon County Clerk of Courts. In the event such means of payment is

not available, U.S. Currency will be accepted as a last resort at the Carbon County Correctional Facility in Nesquehoning.

Similarly, the Magisterial District Courts shall be permitted in their discretion to make alternate arrangements for the deposit at a secure location near the entrance to their offices of documents to be filed in their offices and for the payment of amounts due in a manner other than cash, provided appropriate arrangements are made for filings which involve emergency matters or require emergency action (e.g., emergency PFAs, indirect criminal contempts, and those matters identified in Paragraph 2 of the Eighth Administrative Order dated November 23, 2020).

9. In the event a constable or Sheriff's deputy is unavailable, in order to control the flow of traffic, maintain social distancing, and screen visitors entering their offices, the Magisterial District Courts may lock their doors to the general public during normal business hours provided the following measures are taken to permit public access: (1) a telephone number shall be posted conspicuously on the outside entrance door or other appropriate location prior to entering the Court's offices with instructions on the use of this number by visitors having business with the Court as a means of contacting members of the District Court Offices to explain their purpose for being there and receive instructions from staff on how to proceed; (2) a Covid-19 questionnaire shall be made available and completed by visitors before entering the Court's offices in the event the information requested in the questionnaire cannot be adequately provided in the above-referenced telephone contact or by other means; and (3) secure drop boxes shall be made available during business hours only with instructions conspicuously posted as to the purpose of such receptacles (e.g., to receive documents for filing, to receive non-cash payments).

10. Criminal Pre-trial Conferences previously scheduled in the District Attorney's Office for December 3, 2020, were continued by the District Attorney due to the unavailability of staff and attorneys to process and meet with defendants and their counsel. The continuance of these Pre-trial Conferences is hereby confirmed by the Court and these cases shall be re-scheduled by the Court Administration at a date to be determined.

11. Consistent with previous Administrative Orders in this matter, when age or an underlying health condition places a party, counsel or material witness at higher risk or danger from COVID-19, continuances – when such grounds are adequately documented to the satisfaction of the presiding judicial officer - shall be liberally granted by the Common Pleas Judges and Magisterial District Judges of this Judicial District.

12. As previously provided for in Paragraph 11 of the Eighth Amended Administrative Order dated November 23, 2020, all criminal defendants currently serving weekend sentences shall have their sentences deferred for a period of forty-two days commencing on Friday, November 27, 2020, such that those defendants whose names appeared on the list attached to that order are not required to report to the Carbon County Prison to serve the balance of their unserved weekend sentence until Friday, January 8, 2021, if the weekends as so defined in the most recent sentencing order begins on a Friday, or on such date next following Friday, January 8, 2021, if the weekends as so defined in the most recent sentencing order begins on a day other than a Friday.

13. The operation of Pa.R.Crim.P. No.600 is suspended in the 56th Judicial District through February 1, 2021, so that the time period from the date of this Order through February 1, 2021, shall be excluded from the time computation under

Pa.R.Crim.P. No.600 (C) without prejudice to a criminal defendant's right to a speedy trial under the United States and Pennsylvania Constitutions.

Notice

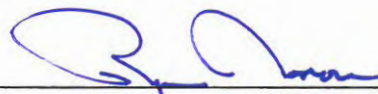
14. Within 24 hours, the District Court Administrator shall ensure that a copy of this order is:

- a. Filed with the Prothonotary of the Supreme Court of Pennsylvania in the Middle District Office;
- b. Transmitted to the Court Administrator of Pennsylvania;
- c. Posted conspicuously on the entry doors of the Carbon County Courthouse, at 76 Susquehanna Street in Jim Thorpe, and all Magisterial District Courts of the 56th Judicial District;
- d. Posted on this Court's website; and
- e. Transmitted to the Carbon County Bar Association with the request that the Association promptly forward a copy to all members.

Effective Date

15. This order is effective immediately and shall remain in effect through and including February 1, 2021. In addition to terminating the November 23, 2020 Eighth Amended Administrative Order, this Order is intended as an extension and continuation of the Seventh Amended Administrative Order No.6-2020 dated September 22, 2020, as herein amended.

BY THE COURT:



Roger N. Nanovic, P.J.