IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

In re:	) Judge K. J. Montgomery
ORDER DECLARING A JUDICIAL EMERGENCY	)
AND CONTINUITY OF OPERATIONS OF THE	) JOURNAL ENTRY
COURT DUE TO COVID-19	

The Judge of the Shaker Heights Municipal Court makes the following findings of fact:

1. The Center for Disease Control and Prevention (CDC) is responding to an outbreak of respiratory disease caused by a new coronavirus that was first detected in China and which has now been detected in more than 100 locations internationally, including in the United States. The virus has been named "SARS-CoV-2" and the disease it causes has been named "coronavirus disease 2019" (abbreviated "COVID-19").

2. On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization (WHO) declared the outbreak a "public health emergency of international concern." On January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On March 11, 2020, WHO publicly characterized COVID-19 as a global "pandemic" requiring "urgent and aggressive action" to control the spread of the virus.

3. According to the CDC, more cases of COVID-19 are likely to be identified in the United States in the coming days, including more instances of community spread. It is likely that at some point, widespread transmission of COVID-19 in the United States will occur. Widespread transmission of COVID-19 would translate into large numbers of people needing medical care at the same time. Schools, childcare centers, and workplaces may experience more absenteeism. Mass gatherings may be sparsely attended or postponed. Public health and healthcare systems may become overloaded, with elevated rates of hospitalizations and

deaths. Other critical infrastructure, such as law enforcement, emergency medical services, and sectors of the transportation industry may also be affected. Healthcare providers and hospitals may be overwhelmed. At this time, there is no vaccine to protect against COVID-19 and no medications approved to treat it. Non-pharmaceutical interventions would be the most important response strategy.

4. The United States government has taken steps to respond to the coronavirus and protect the health and safety of Americans. The U.S. government has cautioned that Americans should be prepared for the possibility of a COVID- 19 outbreak in their community. The community can take measures to reduce the spread of COVID-19. Until a vaccine or drug is available for COVID-19, community-based interventions such as school dismissals, event cancellations, social distancing, and creating employee plans to work remotely can help slow the spread of COVID-19. Individuals can practice everyday prevention measures like frequent hand washing, using sanitizers on hands and surfaces, staying home when sick, and covering coughs and sneezes. Decisions about the implementation of community measures will continue to be made by local and state officials, in consultation with federal officials as appropriate, and based on the scope of the outbreak and the severity of illness. Implementation requires extensive community engagement, with ongoing and transparent public health communications.

5. On March 9, 2020, Ohio Governor Mike DeWine issued Executive Order 2020-01 D, "Declaring a State of Emergency," in response to the growing COVID-19 public health crisis. Governor DeWine and public health officials urged people to avoid large, indoor gatherings to minimize close-contact and potential exposure to the coughs or sneezes of others. Many Ohio colleges are utilizing online learning and extending spring breaks to keep students out of classrooms. Governor DeWine ordered that all Ohio schools take an extended 3-week spring break beginning Monday, March 16, 2020. Sporting events are canceled, including OHSM, NBA, MAC, Big Ten, NCAA, and Lake County, Cleveland, Columbus, and Akron professional sports teams. Many local attractions are closed, including Playhouse Square, the Cleveland Orchestra, concerts, shows, museums, and other events. On March 12, 2020, Governor DeWine and Ohio Department of

Health Director Amy Acton, M.D., MPH signed an order prohibiting mass gatherings in Ohio. Mass gatherings are defined as any event or convening that brings together 100 or more persons in a single room or single space at the same time such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space.

6. Shaker Heights Municipal Court consulted with city and county officials, the Supreme Court of Ohio, and other local and state agencies, and upon recommendations obtained from the foregoing, including the U.S. government, hereby declares an emergency and makes the following orders regarding the continuity of operations of the court.

7. This court is mindful that it must follow all laws and procedures even with the current emergency situation.

8. Based upon the above findings of fact, the Shaker Heights Municipal Court has developed a continuum of flexible responses in case the public health crisis escalates to be in effect until such time as the response to the COVID-19 local health crisis has resulted in control of the spread of the disease or otherwise until further order of the court. The continuum of responses is intended to protect public health, to maintain essential court functions, and to continue to protect the rights of all individuals subject to the authority of the court.

THEREFORE, IT IS HEREBY ORDERED:

The courthouse shall have three states of opening, use, and operations, as follows, as declared by the Judge:

A. "Open" means normal operations with full, healthy staffing on hand, and full hearings and trials, both civil and criminal, jury and bench, to the extent possible under the circumstances.

B. "Open with Restrictions" means essential judicial, court, and clerk personnel shall be on duty in the courthouse, including sufficient bailiffs. All court matters shall be open to only the litigants, their attorneys, and witnesses. All other family, friends, children, etc. shall not be permitted to remain in the building.

Limited media may be admitted upon request subject to such health screening as the Judge requires with exclusion based upon the results of such screening.

Law enforcement shall use email, fax and other telephonic means to conduct court business. Law enforcement shall come to the court for business reasons only such as the filing of cases, obtaining warrants and responding to subpoenas. During such times, law enforcement shall practice social distancing and use sanitizers available to them before interacting with court staff.

C. "Closed" means the courthouse is closed for all operations, in which instance, all filings are preserved to the next business day that the courthouse is not closed, and all trials, hearings, and appearances are postponed unless the same can be conducted electronically.

1.) The local rules of court may be temporarily adapted to allow the court flexibility, within constitutional limits, in response to the public health emergency.

2.) The court's security policies may be temporarily amended or supplemented to protect public health while maintaining essential court functions.

3.) The court's, and the city of Shaker Heights' (to the extent that it affects court employees) employee handbooks and human resource provisions may be temporarily adjusted to maintain essential court operations and functions.

4.) The court authorizes the use of audiovisual devices and technologies for as many court actions and proceedings as is practicable.

5.) This public health emergency is considered to be a finding of "just cause" for continuances deemed necessary by the Judge or court magistrates on a case-by-case basis. The Judge will rule upon any Ohio Supreme Court case time guidelines on a case by case basis weighing the prejudice or time potential violation against the severity of the public health emergency.

6.) The court has 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.

7.) All visitors to the courthouse shall pass through the magnetometer and shall use a sanitizing wipe or spray as provided by the

court before entering. Visitors to the clerk's window shall also utilize sanitizing products provided by the court before being assisted by the court staff. The court reserves the right to have cases rescheduled for those who come to court exhibiting signs of illness. Visitors may be turned away and sent a new court date by mail. In such case, they shall sign a mailing address verification and then leave the building. They may also be issued a mask to wear while at the courthouse. This court space is severely limited and the court cannot control the number of cases filed. However, the following practices shall be employed to protect staff and visitors:

- The Judge has the right to remove anyone from the court who is suspected of being infected or ill. The Judge may also order individuals to wear a protective mask.
- The bailiffs will limit the number of people entering the courtroom at one time. For large dockets, defendants may be divided into groups entering the courtroom at staggered intervals.
- Defendants will be asked to return to their cars and return to the Court after a certain number of minutes so that the population in the courtrooms can be reasonable in number.
- Bailiffs may also direct visitors to the police lobby or hallways to await their cases in order to lessen crowding in the courtrooms as dockets are called.
- Criminal pretrials which include the exchange of physical information shall be conducted in open areas of the building. The court encourages prosecutors to conduct as many pretrials by telephone as possible and mail materials that are to be exchanged. Civil pretrials shall be conducted by phone as much as possible. If scheduled pretrials cannot proceed telephonically, then they shall be held at the court as scheduled.
- Building and housing case arraignments shall be held as scheduled. Compliance hearings/status hearings in which repairs are scheduled may be conducted telephonically and may be communicated in a joint writing by city and defendant. The writing shall be received by the court within 24 hours of the scheduled court date. The writing shall indicate items corrected and approved and those to be corrected for the next scheduled court date. The court may then adopt these findings into a court order. If compliance is not achieved, parties shall appear on the scheduled court date. Building

and housing arraignments and trials shall proceed as scheduled.

- Probation officers shall meet with clients in open spaces such as Courtroom II or the hallways. Scheduled probation clients shall be contacted by phone or electronic means like email in order to reduce the population coming into the court building.
- The Clerk's Office has normally reset matters for a date two weeks ahead. Until further notice, those routine matters shall be set for dates four weeks ahead. The Judge and magistrates shall note in journal entries that the longer postponement of court business is due to the judicial emergency caused by COVID-19.
- Staff shall work to encourage all matters that can be handled remotely to be conducted in this fashion until further notice including waiving tickets and meeting telephonically.
- Cashiers and staff accepting money or documents at the clerk's office window shall wear protective gloves provided by the court and dispose of same appropriately.
- When appropriate, the Judge shall order jail sentences to commence at a date in the future in order to avoid overcrowding jail facilities with nonviolent offenders at this time. Those dates may be revisited from time to time as this judicial emergency situation progresses.
- Parties to court proceedings shall request continuances if they or family members are ill. For the months of March and April 2020, any filing fees normally associated with continuance requests shall be waived.
- Continuances: Defendants that would like to contest their case can avoid coming to the courthouse for their arraignment by filing a not guilty plea prior to their arraignment. Defendants can download a Not Guilty Plea form from the Court's website, fill it out and file it with the Clerk of Court prior to their arraignment date. The Not Guilty Plea form also gives Defendants the option to waive their right to a speedy trial and permit the Court to set their next court date further out into the future. A printed copy of the Not Guilty Plea form is also available at the Clerk's office window.
- While the Court will continue to accept filings at the window, it also accepts filings of 15 pages or less by facsimile and by mail. The Court's fax number is 216-491-1314. Any civil pleading can be filed

by facsimile as long as the Court's Civil Fax Credit Card Payment Form is utilized for the filing fee. The Civil Fax Credit Card Payment Form is available on the Court's website. Pleas of Not Guilty can be filed by facsimile or mailed to The Shaker Heights Municipal Court, Clerk of Court at 3355 Lee Rd., Shaker Heights, Ohio 44122.

- All trials and hearings not specifically referenced in this order shall proceed as scheduled.
- The Judge will encourage adaptation of additional health precautions by supplementing this order from time to time.
- All weddings are cancelled until further order of the court.

8.) Court staff, attorneys, witnesses, jurors, and security personnel who exhibit signs of illness shall contact the court by telephone or email and shall not come into the courthouse or report for duty unless specifically instructed to do so by the Judge.

9.) Court staff may be subject to health screening or testing, when screening or testing is available, and exclusion from admission based upon the results of such screening or testing.

10.) All court staff shall enter through the back door of the court and swipe into the court's timeclock as currently required. Additionally, staff as they enter for the first time in the morning shall utilize the court-supplied thermometer to check their temperature. After the no-touch forehead temperature check is complete, the employee shall wipe the thermometer with the sanitizing wipes provided and return it to position for the next staff member to use upon entering.

If the employee records a temperature of 100.4 or more, the employee shall be required to leave work and return home and quarantine for 14 days unless otherwise directed by the Judge. The employee should seek medical attention as quickly as possible.

All staff whenever returning to the courthouse at other times of day shall wipe their hands with a sanitizing wipe or spray as provided by the court.

All staff shall practice good hygiene and social distancing as much as possible. The court will provide guidelines as they become available from reliable sources. Among the most important guidelines are proper handwashing, not touching faces with hands and disinfecting before eating. Staff shall not eat while working. While eating at desks is permitted once cleaned, food shall be consumed and then work resumed.

11.) The court shall attempt to minimize the amount of travel and social interaction of litigants, attorneys, witnesses, jurors, law enforcement personnel, and judicial personnel by continuing non-essential proceedings or conducting proceedings, as far as practical, by remote video or telephonic means (electronically). However, any matters requiring to be recorded for preservation shall be conducted in Courtrooms 1 or 2 through the use of the courtrooms' recording equipment and speaker phones or videos.

If recording is for any reason not available or accessible and a record is desired or necessary, the court and the parties shall jointly craft a statement in lieu of transcript of the proceedings in accordance with appellate rules.

12.) The clerk's office shall conduct business with essential personnel only, as determined by the clerk, and may determine to conduct the receipt of filings or other transactions only through the clerk's windows or by email. This shall include the filing of cases by law enforcement.

13.) Criminal arraignments, pretrials and motion hearings shall be conducted by video from area detention facilities whenever technically possible.

14.) Unless the Ohio Rules of Criminal Procedure require, no jury trials shall be conducted during the months of March, April or May, 2020.

15.) Employees of the court not on duty in the courthouse shall work, to the extent possible, remotely, and in accordance with the directives of the Judge. All judicial employees are deemed essential, even if working remotely from home, and shall be paid their regular salaries.

16.) When a court employee is determined to be unable to work or required to be quarantined due to COVID-19, the employee shall not be required to use sick leave and shall be compensated as regularly paid.

The court will further follow salary, sick leave and employment guidelines as established by the city of Shaker Heights during this judicial emergency.

17.) This emergency order may be amended and supplemented from time to time in order to address this public emergency.

At this time, Shaker Heights Municipal Court is "Open with Restrictions" and the above provision applicable. When the emergency subsides, the court shall enter an order declaring an end to the emergency and returning the court to a simply "Open" state with resumption of

normal operations.

18.) This "Temporary Order" is ordered to be served on the Supreme Court of Ohio, the municipalities of this court district (their mayors, prosecutors and law directors), Ohio Judicial Conference, and the media.

So ordered.

Judge K.J. Montgomery

March 16, 2020
Date

Journalized 3-16-2020
Clerk of Court
By
Deputy Clerk