

FILED 3/30 2020
AT 12:14 O'CLOCK P.M.
KEVIN POE, CLERK

IN THE FOURTH JUDICIAL DISTRICT OF TENNESSEE

IN RE: * STANDING ORDER: 2020-01
COVID-19 PANDEMIC * JUDICIARY SITTING *EN BANC*

2020 MAR 27 AM 10:33
RITA D. ELLISON, CLERK
SEVIER COUNTY, TN
CIRCUIT COURT
FILED

STANDING ORDER REGARDING PRETRIAL DETENTION

In response to the COVID-19 pandemic the Tennessee Supreme Court on March 13, 2020, declared a state of emergency for the judicial branch of Tennessee government. The judiciary of this district has been monitoring developments related to the pandemic closely, in particular with regard to the impact of the pandemic on this district's jail population. The high population density of the local jails during the current pandemic poses a special problem not only for those incarcerated but also for the corrections officers, sheriffs' deputies, law enforcement officers, health care workers, and other professionals who regularly come in contact with inmates. In recognition of this problem the undersigned Judges of the Fourth Judicial District, sitting *en banc*, find that it is necessary and appropriate to take the following extraordinary measures to balance the interests of justice with the interests of public health. Except as set forth hereinafter, all bonds shall be determined by either a judge or magistrate as required by law.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

BAIL FOR UNSENTENCED DEFENDENTS

A. Notwithstanding any other provision herein, in the event the defendant poses a danger to himself or others, or for other good cause, the bail, and any conditions of bail, of any offense shall be set by the issuing judge or magistrate.

[1]

STATE OF TENNESSEE, COUNTY OF SEVIER
I, Rita D. Ellison, Circuit Court Clerk

Certify this to be an exact copy of
Standing Order Regarding Pretrial Detention
as appears of record in my office. Attest this
27 day of March, 2020.
Rita D. Ellison
Rita D. Ellison, Circuit Clerk or Deputy Clerk

B. MISDEMEANORS.

i. That bail for non-violent unsentenced misdemeanor offenses for which any inmate is currently held in any jail within the Fourth Judicial District is set at zero, and the same inmates be released on their own recognizance pending further disposition of their cases.

ii. That no bail be required for any person arrested for any non-violent misdemeanor offense occurring within the Fourth Judicial District after the effective date of this Order, though nothing in this Order is intended to limit the ability of the Office of the District Attorney General to file motions requesting that bail be required for a specific case.

C. PROBATION VIOLATIONS.

i. That bail for any unsentenced violation of probation arising from a non-violent misdemeanor offense, for which the basis of the alleged violation of probation is as specified in Schedule A, and for which any inmate is currently held in any jail within the Fourth Judicial District, be set at zero, and that the same inmates be released on recognizance pending further disposition of their cases.

ii. That no bail be required for any person arrested for any alleged violation of probation based on a misdemeanor sentence and who would qualify for a release on recognizance under Schedule A after the effective date of this Order, though nothing in this Order is intended to limit the ability of the Office of the District Attorney General to file motions requesting that bail be required for a specific violation of probation.

iii. That bail shall continue to be set by the judge approving the warrant for alleged violations of misdemeanor probation other than those outlined in Schedule A.

iv. That no bail be required for any person arrested for any alleged violation of probation based on a felony sentence and who would qualify for release on recognizance under Schedule A.

v. That bail shall continue to be set by the Judge approving the warrant for alleged violations of felony probation other than those outlined in Schedule A.

D. FELONIES:

i. That bail for unsentenced felony offenses for which any inmate has been determined to be indigent and is currently held in any jail within the Fourth Judicial District be set according to the attached Schedule A, though nothing in this Order is intended to limit the ability of the Office of the District Attorney General or of any inmate or defense attorney to file motions requesting that bail be modified.

ii. That bail be set according to the attached Schedule A for any felony offense occurring within the Fourth Judicial District after the effective date of this Order, or for any felony offense in an indictment remaining unserved after the effective date of this Order.

E. CONTEMPT:

i. Bail for indigent inmates as evidenced by a properly completed and sworn to Affidavit of Indigency who are held in custody based on any allegation of criminal or civil contempt, other than the failure to appear for an alleged felony offense, is set at zero, and the same inmates be released on recognizance pending further disposition of their cases.

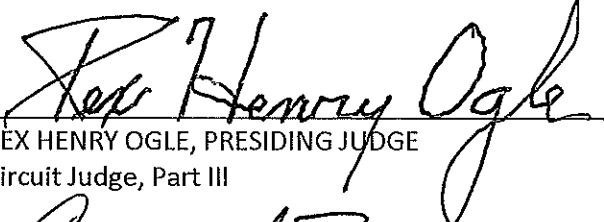
ii. That no bail be required for any person arrested on any allegation of criminal or civil contempt, other than the failure to appear for any alleged felony offense or violation of felony probation not otherwise eligible for own recognizance release.

F. HEARINGS:

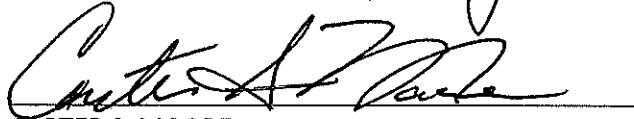
That all hearings regarding any dispute about bail may be conducted telephonically, unless the Judge conducting the hearing orders the hearing to be conducted in person.

ENTERED this 26th day of March, 2020.

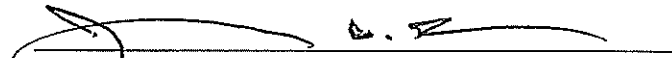
JUDGES OF THE FOURTH JUDICIAL DISTRICT



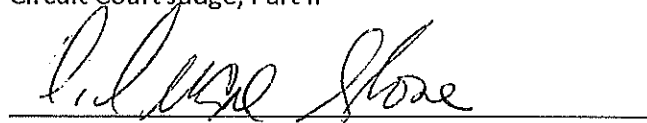
REX HENRY OGLE, PRESIDING JUDGE
Circuit Judge, Part III




CARTER S. MOORE
Circuit Court Judge, Part I



JAMES L. GASS
Circuit Court Judge, Part II



O. DUANE SLONE
Circuit Court Judge, Part IV



TELFORD E. FORGETY, JR.
Chancellor

SCHEDULE "A"

Offenses Eligible for Own Recognizance Bonds

1. Non Violent Misdemeanors
2. Non Violent C, D & E Felonies
3. Probation violations based solely on:
 - (a) any allegation of a positive drug screen or admission to use of any controlled substance;
 - (b) any allegation of absconding supervision for a period of four months or less;
 - (c) any allegation of the commission of a new misdemeanor offense other than domestic assault or driving under the influence;
 - (d) any allegation of failure to pay court costs, restitution, supervision fees, or any other payment required by the court as a condition of probation;
 - (e) any allegation of failure to complete any class or assessment; or
 - (f) any other allegation of a technical violation of the rules of probation, excluding the commission of a new felony offense or a new misdemeanor offense involving domestic assault or driving under the influence.
4. All other offenses and revocations not set forth in 1, 2 and 3 above are to be set by the appropriate court.

For purposes of this Schedule, a violent offense would be those offenses against the person set forth in T.C.A. §39-13-101 thru §39-13-533 and those against children as set forth in T.C.A. §39-15-401, 402.

IN THE 4TH JUDICIAL DISTRICT OF TENNESSEE

IN RE: * STANDING ORDER: 2020-02
COVID 19 *

ORDER REGARDING THE MANNER IN WHICH IN-PERSON COURT PROCEEDINGS
ARE TO BE CONDUCTED PURSUANT TO TENNESSEE SUPREME COURT ORDER "IN
RE : COVID-19 PANDEMIC NO. ADM2020-00428"

In response to the COVID-19 pandemic the Chief Justice of the Tennessee Supreme Court on March 13th declared a state of emergency for the Judicial Branch of Tennessee government and activated a Continuity of Operations Plan for the courts of Tennessee including the suspension of in-person court proceedings subject to exceptions. On March 25th, 2020 the Tennessee Supreme Court entered its order continuing the suspension of in-person proceedings subject to exceptions set forth in the Tennessee Supreme Court Order "IN RE: COVID 19 PANDEMIC NO. ADM2020-00428" which is attached hereto and incorporated herein by reference.

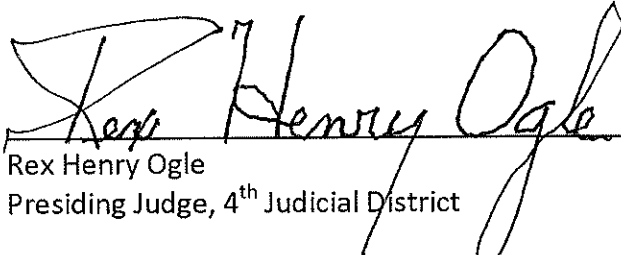
The manner in which in-person proceedings for the exceptions set forth in Tennessee Supreme Court Order "IN RE: COVID 19 NO. ADM2020-00428" shall be conducted as follows:

1. In general, all lawyers, court personnel, parties and participants should follow the guidelines established by the Centers for Disease Control and Prevention (CDC) regarding prevention of spreading of Coronavirus Disease (COVID 19). See [cdc.gov/coronavirus](https://www.cdc.gov/coronavirus);
2. All lawyers, parties, court personnel and participants shall maintain a distance of no less than 6 feet from each other except as necessary to pass documents or maintain court room security;
3. Lawyers and Pro Se litigants are encouraged to share documents with each other electronically;
4. Frequently touched areas in the courtroom, judges chambers, in-court meeting rooms and holding cells are to be cleaned and disinfected at least daily and in accordance with CDC guidelines;

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5. Stay at home if you are sick. Notify the opposing party and court clerk as soon as possible that you will not be attending court because you are sick;
6. In the event that lawyers, parties, witnesses, court personnel or other participants are at higher risk of serious illness or are sick every accommodation should be made to enable the appearance of members of this group remotely;
7. Lawyers and Pro-Se litigants are to work diligently with each other to resolve as many issues as possible in advance of in-court proceedings to limit in-court time as much as possible; and
8. All exceptions to the above requirements must be approved by the judge presiding over the court room in advance.

Enter this the 27 day of March, 2020.


Rex Henry Ogle
Presiding Judge, 4th Judicial District

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



IN RE: COVID-19 PANDEMIC

No. ADM2020-00428

**ORDER CONTINUING SUSPENSION OF IN-PERSON COURT PROCEEDINGS
AND EXTENSION OF DEADLINES**

On March 13, 2020, in response to the COVID-19 pandemic, the Chief Justice of the Tennessee Supreme Court declared a state of emergency for the Judicial Branch of Tennessee government and activated a Continuity of Operations Plan for the courts of Tennessee. See Tenn. Const. Art. VI, § 1; Tenn. Code Ann. §§ 16-3-501 to 16-3-504 (2009); Moore-Pennoyer v. State, 515 S.W.3d 271, 276-77 (Tenn. 2017); Tenn. Sup. Ct. R. 49. This state of emergency constitutes a “disaster” for purposes of Tenn. Sup. Ct. R. 49 and Tenn. Code Ann. § 28-1-116. In light of ongoing concerns, the Tennessee Supreme Court hereby continues the suspension of in-person court proceedings and the extension of deadlines as set forth in this order. We again emphasize that the local and state courts of the State of Tennessee are open and will remain open under all circumstances, subject to the provisions of this order.

Under the constitutional, statutory, and inherent authority of the Tennessee Supreme Court, we adopt the following provisions. All in-person proceedings in all state and local courts in Tennessee, including but not limited to municipal, juvenile, general sessions, trial, and appellate courts, shall be suspended from the close of business on Friday, March 13, 2020, through Thursday, April 30, 2020, subject to the exceptions below.

Exceptions to this suspension of in-person court proceedings include, but are not limited to:

- Proceedings necessary to protect constitutional rights of criminal defendants, including bond-related matters, preliminary hearings for incarcerated individuals, and plea agreements for incarcerated individuals
- Proceedings related to relief from abuse, including but not limited to orders of protection
- Proceedings related to statutory order of protection hearings after entry of an ex parte order as necessary to satisfy any due process concerns

- Proceedings related to emergency child custody or visitation orders
- Proceedings related to the voluntary surrender of parental rights
- Settlements involving a minor or a person with a disability
- Department of Children's Services emergency matters related to child safety, placement, permanency, or federal funding for children in foster care
- Proceedings related to petitions for temporary injunctive relief
- Proceedings related to emergency mental health orders
- Proceedings related to emergency protection of elderly or vulnerable persons
- Proceedings directly related to the COVID-19 public health emergency
- Other exceptions as approved by the Chief Justice

The presiding judge or the designee of the presiding judge of each judicial district is authorized to determine the manner in which in-person court proceedings for the exceptions listed above are to be conducted. Other exceptions to the suspension of in-person court proceedings must be approved by the Chief Justice. Any permitted in-court proceedings shall be limited to attorneys, parties, witnesses, security officers, and other necessary persons, as determined by the trial judge. Judges and their staff shall ensure that social distancing and other such measures are strictly observed. For purposes of implementing procedural matters during this time, the provisions of Rule 18(c) of the Rules of the Tennessee Supreme Court are suspended to allow judges to issue general orders.

Judges are charged with the responsibility of ensuring that core constitutional functions and rights are protected. Additionally, court clerks are charged with ensuring that court functions continue. See Tenn. Code Ann. §§ 18-1-101 (2009); 18-1-105 (Supp. 2019). Nevertheless, all judges and court clerks should minimize in-person contact by utilizing available technologies, including alternative means of filing, teleconferencing, email, and video conferencing.

Any Tennessee state or local rule, criminal or civil, that impedes a judge's or court clerk's ability to utilize available technologies to limit in-person contact is suspended through Thursday, April 30, 2020. See, e.g., Tenn. R. Civ. P. 43.01. With respect to plea agreements for non-incarcerated individuals, this suspension expressly applies to those provisions of Tenn. R. Crim. P. 11 which otherwise would require the proceeding to be in person in open court. See, e.g., Tenn. R. Crim. P. 11(b)(1) and (2), 11(c)(2)(A).

The presiding judge or the designee of the presiding judge of each judicial district shall develop a written plan to affirmatively address issues regarding the incarceration of nonviolent offenders in furtherance of efforts to reduce the jail population, including but not limited to bond reductions or eliminations, deferred sentences, and suspended sentences. The presiding judge or the designee of the presiding judge of each judicial district shall submit its plan to the Administrative Office of the Courts by the close of

business on Monday, March 30, 2020, absent an extension granted by the Chief Justice.

Judges' offices and court clerks' offices may limit in-person contact with the public during the period of suspension, but must remain functional. If it becomes necessary to close judges' or court clerks' physical offices during the period of suspension, these offices shall remain accessible by telephone, email and fax to the extent possible during regular business hours. If available, drop boxes should be used for conventionally filed documents.

This order expressly encourages and does not prohibit court proceedings by telephone, video, teleconferencing, email, or other means that do not involve in-person contact. This order does not affect courts' consideration of matters that can be resolved without in-person proceedings. Although some non-emergency matters will need to be rescheduled, judges are to continue to resolve matters that do not require in-person court proceedings. Court clerks are to work cooperatively and at the direction of the presiding judge of each judicial district to fulfill the clerks' obligation to facilitate continuing court function.

Deadlines set forth in court rules, statutes, ordinances, administrative rules, or otherwise that are set to expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are hereby extended through Wednesday, May 6, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are hereby extended through Wednesday, May 6, 2020. See Tenn. Code Ann. § 28-1-116 (2017). Deadlines, statutes of limitations, and statutes of repose that are not set to expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are not extended or tolled by this order.

With regard to notarizing documents at this time, attorneys and judges are encouraged to utilize the "Online Notary Public Act," Tenn. Code Ann. § 8-16-301, et seq., and the regulations promulgated by the Secretary of State at Sec. of State, Tenn. R. and Reg. 1360-07-03-.01. Additionally, with regard to court filings, declarations under penalty of perjury may be used as an alternative to a notary.

Given the increasing economic issues caused by this pandemic, no judge, clerk, or other court official shall take any action to effectuate an eviction, ejection, or other displacement from a residence during the effective dates of this order based upon the failure to make a rent, loan, or other similar payment absent extraordinary circumstances as determined by a judge in a court of competent jurisdiction. Nothing in this order affects the obligations, terms, or conditions for payment under existing contracts. Judges also are encouraged to work with court clerks and local law enforcement to develop policies severely limiting or eliminating any new garnishments during this time.

Orders of protection and temporary injunctions that would otherwise expire during the period from Friday, March 13, 2020, through Tuesday, May 5, 2020, are hereby extended through Wednesday, May 6, 2020.

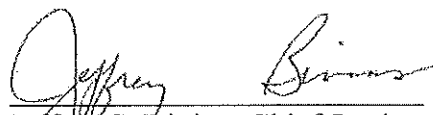
This order applies statewide to all courts and court clerks' offices except administrative courts within the Executive Branch and federal courts and federal court clerks' offices located in Tennessee.

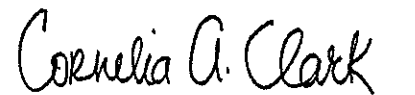
Under the terms of this order, the courts of Tennessee remain open, consistent with the Judicial Branch's obligation to mitigate the risks associated with COVID-19. Judges should work with local law enforcement and other county officials to ensure that, to the extent possible, courthouses remain accessible to carry out essential constitutional functions and time-sensitive proceedings.

This order is intended to be interpreted broadly for protection of the public from risks associated with COVID-19.

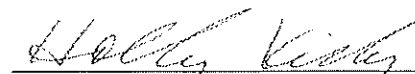
It is so ORDERED.

FOR THE COURT:


Jeffrey S. Bivins, Chief Justice


Cornelia A. Clark, Justice


Sharon G. Lee, Justice


Holly Kirby, Justice


Roger A. Page, Justice