

ADMINISTRATIVE ORDER
NO. 2020-06-05

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE AND OSCEOLA
COUNTIES, FLORIDA

AMENDED TEMPORARY ORDER GOVERNING TRIAL COURT PROCEEDINGS

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the Chief Judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the Chief Judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and considering available resources, to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the Chief Judge is required to exercise direction, *see Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and*

WHEREAS, the Centers for Disease Control and the Florida Department of Health have advised people to take precautions in light of the Coronavirus Disease 2019 (COVID-19) outbreak, and specifically noting the best way to prevent illness is to avoid exposure to the virus through such measures as small gatherings and social distancing; and

WHEREAS, because of the COVID-19 outbreak, Governor Ron DeSantis declared a State of Emergency on March 1, 2020, the World Health Organization declared a global pandemic on March 11, 2020, Orange County declared a Local State of Emergency on March 13, 2020, and Osceola County declared a Local State of Emergency on March 16, 2020; and

WHEREAS, on March 13, 2020, Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-13, In Re: COVID-19 Emergency Procedures in the Florida State Courts, requiring Chief Judges to continue ongoing planning and authorizing the use of mitigating measures to address the effects of COVID-19; and

WHEREAS, on March 17, 2020, Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-15, In Re: COVID-19 Essential and Critical Trial Court Proceedings, requiring that no proceedings or other court events other than essential proceedings and proceedings critical to the state of emergency or the public health emergency shall be conducted through in-person hearings until such time as the public health emergency is resolved, or as provided by subsequent order; and

WHEREAS, pursuant to Administrative Order No.: AOSC20-15, In Re: COVID-19 Essential and Critical Trial Court Proceedings, the Chief Judge may determine that other proceedings and events can be effectively conducted remotely without the necessity of in-person court appearances; and

WHEREAS, on April 6, 2020, Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-23, In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts, extending, refining, and strengthening previously enacted temporary remedial measures. The measures remained in effect until the close of business on May 29, 2020; and

WHEREAS, on May 4, 2020, Chief Justice Charles T. Canady issued Amendment 1 to Administrative Order No. AOSC20-23, extending suspensions of all jury proceedings; specifying the types of proceedings the circuit and county courts should conduct remotely; and, extending certain time periods in criminal and juvenile court proceedings; and

WHEREAS, on May 21, 2020, Chief Justice Charles T. Canady issued Amendment 3 to Administrative Order No. AOSC20-23, providing that it is the intent of the judicial branch to transition to optimal operations in a manner that protects the public's health and safety during each of the following anticipated phases of the pandemic:

- a) Phase 1 – in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare;
- b) Phase 2 – limited in-person contact is authorized for certain purposes and/or requires use of protective measures;
- c) Phase 3 – in-person contact is more broadly authorized and protective measures are relaxed; and
- d) Phase 4 – COVID-19 no longer presents a significant risk to public health and safety; and

WHEREAS, on May 21, 2020, Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-32, adopting the *Requirements, Benchmarks, and Guidelines Governing the Transition to Limited In-Person Contact (Phase 2)*(the “report”), as modified, and providing that any judicial circuit seeking to transition to Phase 2 and expand in-person activities consistent with AOSC20-23, Amendment 2, must have (1) met the five benchmark criteria established in the report, (2) developed an operational plan addressing, at a minimum, implementation of the requirements identified in the report, and (3) filed the operational plan with the Office of State Courts Administrator; and

WHEREAS, on June 8, 2020, Chief Justice Charles T. Canady issued Amendment 3 to Administrative Order No. AOSC20-23, providing that all statewide grand jury proceedings shall remain suspended through July 26, 2020, and all other jury proceedings, including grand jury proceedings, jury selection proceedings, and criminal and civil jury trials shall remain suspended through July 17, 2020; specifying the types of proceedings the circuit and county courts should conduct remotely; providing that all time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended through the close of business on Monday, July 20, 2020; providing that, with regard to persons arrested for first degree murder, all time periods under Florida Rules of Criminal Procedure 3.133(b) and 3.134 shall remain suspended through July 17, 2020; and

WHEREAS, on June 16, 2020, Chief Justice Charles T. Canady issued Amendment 4 to Administrative Order No. AOSC20-23, which extends, refines, and strengthens previously enacted temporary remedial measures, to include changing the suspension period for jury proceedings other than statewide grand jury proceedings, extending the suspension of the speedy trial procedure for criminal and juvenile court proceedings, and specifying a termination date for the suspension of the speedy trial procedure for civil traffic infractions; and

WHEREAS, on June 4, 2020, the Ninth Judicial Circuit Court of Florida determined that it had met the five benchmark criteria established in the report, finalized development of an operational plan addressing, at a minimum, implementation of the requirements identified in the report, and filed the operational plan with the Office of State Courts Administrator; and

WHEREAS, in conducting essential proceedings and proceedings critical to the state of emergency or the public health emergency, circuit and county courts shall employ all methods practicable to minimize risk of COVID-19 exposure to individuals involved in the proceedings or the general public; and

WHEREAS, during the duration of Administrative Order Nos. AOSC20-13, AOSC20-15, and Amendments 1, 2, 3 and 4 to AOSC20-23, the Chief Judge of each judicial circuit is authorized to establish temporary procedures for the use, to the maximum extent feasible, of communication equipment for the conducting of proceedings by remote electronic means, as are necessary in their respective circuits due to the public health emergency; and

WHEREAS, it has become apparent that the Ninth Judicial Circuit can no longer meet one of the five benchmark criteria as established in the report, specifically improving COVID-19 health conditions over a 14-day period in the community; and

WHEREAS, for the health and safety of the public, court employees, and all those who must come to the courthouse to conduct business, and in consultation with local justice partners, it has been decided that the Ninth Judicial Circuit must return to Phase 1 until such time as the community again shows improving health conditions over a 14-day period; and

WHEREAS, pursuant to section 40.001, Florida Statutes, the Chief Judge of each judicial circuit is vested with overall authority and responsibility for the management, operation, and oversight of the jury system within his or her circuit, and section 905.01, Florida Statutes, requires the Chief Judge to regularly convene the grand jury for a term of 6 months.

In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, sections 40.001, 43.26, and 905.01, Florida Statutes, Florida Rule of Judicial Administration 2.215, and to promote public safety, it is hereby **ORDERED, effective immediately** unless otherwise provided herein:

(1) Beginning June 29, 2020, consistent with Amendment 4 to Florida Supreme Court Administrative Order No. AOSC20-23, AOSC20-32 and the Ninth Judicial Circuit Court Transitional Operation Plan, the Ninth Judicial Circuit Court is transitioning from Phase 2 (limited in-person contact is authorized for certain purposes and requires use of protective measures) back to Phase 1 (in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare) due to the inability of the Circuit to continue to meet one of the five benchmark criteria as stated in the report, namely declining COVID-19 health conditions over a 14-day period in the community.

(2) The Ninth Judicial Circuit and County Courts shall continue to perform essential court proceedings, including but not limited to: first appearance; criminal arraignments as necessary; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.

(3) The Ninth Judicial Circuit and County Courts shall also perform, as necessary and applicable, critical proceedings related to the state of emergency or the public health emergency, including but not limited to proceedings related to: violation of quarantine or isolation; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders.

(4) Pursuant to section 43.26(2)(d), of the Florida Statutes, the Clerks of Court, State Attorney, Public Defender, and other officers of the Court must attend court proceedings as directed by the Chief Judge or Presiding Judge.

(5) Public access to court facilities is hereby limited to counsel for the parties and the litigants involved in an in-person or hybrid court proceeding, and visitors to the offices of the clerk of court. Only persons essential to any proceeding will be allowed in the courtroom: Judge, clerks, parties, attorneys, victims, witnesses, court reporters, court interpreters and other persons whose presence is essential. No other persons will be allowed to enter court facilities via the public entrances or attend court proceedings, except as may be permitted by the Presiding Judge or the Chief Judge. Media may continue to access court facilities consistent with existing administrative orders. In conducting proceedings, the Ninth Judicial Circuit Court shall employ all methods practicable to minimize risk of COVID-19 exposure to anyone involved in the proceedings.

(6) Any person, regardless of status, who is exhibiting symptoms consistent with COVID-19, or any person who has knowingly been in contact with another person who is suffering from the effects of the COVID-19 virus, consistent with the provisions of Ninth Judicial Circuit Administrative Order No. 2020-20, is prohibited from entering any court facility.

(7) If a Judge has coordinated hearings that do not involve in-person contact, then those hearings may occur without delay. In-person court appearances may be conducted as permitted

by AOSC20-23, Amendment 4.

(8) No individual currently serving on the statewide grand jury shall appear for such service between March 16, 2020 and July 26, 2020. All other jury proceedings, including grand jury proceedings, jury selection proceedings, and criminal and civil jury trials, shall remain suspended until 30 days after the chief judge of the judicial circuit has determined that the circuit or a county within the circuit has transitioned to Phase 2 pursuant to Fla. Admin. Order No. AOSC20-32, Amendment 1. Individuals with questions as to jury service may contact Orange County Jury Services at 407-836-2206 or Osceola County Jury Services at 407-742-2423, depending upon county of residence.

(9) Speedy Trial. All time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended until 90 days after the Chief Justice has approved the certification of a chief judge of a judicial circuit that the circuit or a county within the circuit has transitioned to Phase 3. Any defendant facing criminal charges who raises a speedy trial issue because of the suspension of jury duty during the times set forth herein shall file a written motion and provide a courtesy copy to the Administrative Judge of the Circuit Criminal Division or the Administrative Judge of the County Criminal Division, as appropriate, and the Chief Judge.

All time periods involving the speedy trial procedure in noncriminal traffic infraction court proceedings remain suspended until 60 days after the Chief Judge has determined that the Ninth Judicial Circuit has transitioned to Phase 2 pursuant Florida Supreme Court Administrative Order No. AOSC20-32, Amendment 1, or 60 days after the effective date of Florida Supreme Court SCAO20-23, Amendment 4.

(10) Effective immediately, the Public Defender is appointed for all first appearances and juvenile detention hearings, and counsel is appointed for all dependency shelter hearings, without the necessity of an affidavit of indigency.

(11) All Baker Act proceedings, Marchman Act proceedings, Emergency Guardianship proceedings, Risk Protection Order proceedings, and Petitions for Do Not Resuscitate (DNR) Orders will be conducted as directed by the Presiding Judge or Chief Judge.

(12) Non-essential and Non-critical Court Proceedings. Pursuant to Amendment 2 to AOSC20-23, the Chief Justice determined that the following proceedings are amenable to being conducted remotely:

- (1) Alternative dispute resolution proceedings;
- (2) Status, case management, and pretrial conferences in all case types;
- (3) Non-evidentiary and evidentiary motion hearings in all case types;
- (4) Pleas in absentia in county court misdemeanor cases;
- (5) Hearings in juvenile delinquency cases;
- (6) Hearings in noncriminal traffic infraction cases;
- (7) Hearings in involuntary commitment of sexually violent predator cases;
- (8) Problem-solving court staffings, hearings, and wellness checks; and
- (9) Non-jury trials in all case types, except for:

- Criminal cases unless the parties in such case agree to the remote conduct of a non-jury trial; or
- Termination of parental rights or juvenile delinquency cases, unless the chief judge or the presiding judge in the case determines that the non-jury trial should proceed remotely.

Each of the above-listed proceedings shall be conducted using telephonic or other electronic means available unless the Presiding Judge or Chief Judge determines that one of the following exceptions applies:

- Remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or
- Remote conduct of the proceeding would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.

The Court shall continue to review cases and court events and the communications technology resources available to the Circuit, each county, and each Judge. All necessary steps shall be taken to ensure that the above-listed proceedings are conducted to the fullest extent possible.

(13) Juvenile Division Judges shall continue to handle shelter hearings and custody order/detention hearings daily for both Orange and Osceola Counties. Both are done via conference call or video connection only.

(14) In the event of any in-person proceedings the Presiding Judge shall take necessary steps to ensure social distancing in order to minimize potential exposure to COVID-19. The Presiding Judge must ensure that all participants in the proceeding maintain at least a 6-foot “social distance” from each other at all times.

(15) All essential proceedings are being conducted as set forth above. As determined by the Chief Judge, other proceedings and events may be conducted if the Presiding Judge can do so using technological resources such as video or telephone conferencing. Information concerning these other proceedings, including instructions on participating in such proceedings, can be found on the individual Judges’ division pages on the Circuit’s website at www.ninthcircuit.org.

(16) This Administrative Order shall be subject to modification, addition, and extension as the evolving and fluid nature of the facts and circumstance may require.

(17) Administrative Order 2020-06-04 is vacated and set aside except to the extent that it has been incorporated and/or amended herein. Vacating an Administrative Order that vacates a prior Order does not revive the prior Order.

DONE AND ORDERED at Orlando, Florida, this 26th day of June, 2020

/s/
Donald A. Myers, Jr.
Chief Judge

Copies provided to:

Clerk of Court, Orange County
Clerk of Court, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>