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SCMF-20-0000152

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

In the Matter of the Judiciary's Response
to the COVID-19 Outbreak

ORDER EXTENDING JUNE 5, 2020 ORDER TEMPORARILY SUSPENDING IN PART HAWAIʻI RULES OF PENAL PROCEDURE RULE 6(a)
(By: Recktenwald, C.J., Nakayama, McKenna, Wilson, and Eddins, JJ.)

On March 4, 2020, Governor David Ige declared a state of emergency in Hawaiʻi in response to the public health threat posed by COVID-19. In response to the declared state of emergency, the Chief Justice issued an Order on March 16, 2020, which, among other things, postponed non-urgent court business in an effort to ensure the health and safety of court personnel and users, and minimize the risk of spreading COVID-19 in the courts.

Pursuant to the Chief Justice's May 22, 2020 Order Regarding Jury Trial and Grand Juries, beginning June 1, 2020, grand jury proceedings were allowed to commence as directed by the chief judge of the respective circuit. At that time, based

on the recommended guidelines of the Centers for Disease Control and Prevention that social distancing be maintained, and with limited resources, the First Circuit Court did not have the capacity in Kaʻahumanu Hale to place 16 grand jurors as required under Hawaiʻi Rules of Penal Procedure Rule 6(a), as well as the individuals required to be present while the grand jury is in session as set forth under Hawaiʻi Rules of Penal Procedure Rule 6(d), in the same space and allow for social distancing.

Therefore, to protect the health and safety of Judiciary personnel, jurors, and court users consistent with the recommendations of public health authorities, while maintaining court operations during the COVID-19 pandemic without unnecessary delay, on June 5, 2020, this court issued its "Order Temporarily Suspending in Part Hawaiʻi Rules of Penal Procedure Rule 6(a)", which, as to the First Circuit, temporarily reduced the number of members of a grand jury from 16 members to 12 members through July 31, 2020. As the positivity rate of COVID-19 cases increased, and given the ongoing health concerns and the continued mandate for social distancing, it was necessary to extend the June 5, 2020 order. Currently, the June 5, 2020 order expires on December 31, 2020.

The First Circuit Court has taken significant steps to be able to allow grand jury proceedings to resume with 12-member grand jury panels and in compliance with social distancing

measures. Given the current emergency orders and health guidelines, and the continued mandate for social distancing, which is likely to continue through 2021, it is necessary for the 12-member grand jury panels to remain in effect to allow the First Circuit Court to continue to hold grand jury proceedings.

Therefore, pursuant to Article VI, section 7 of the Hawai‘i Constitution and Hawai‘i Revised Statutes §§ 602-5(a)(6) and 612-27,

IT IS HEREBY ORDERED that the June 5, 2020 "Order Temporarily Suspending in Part Hawai‘i Rules of Penal Procedure Rule 6(a)" is further extended until June 30, 2021. This order may be modified or extended as necessary.

Dated: Honolulu, Hawai‘i, December 22, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins