IN THE SUPREME COURT OF THE STATE OF ALASKA

SPECIAL ORDER OF THE CHIEF JUSTICE

ORDER NO. 8242

Update regarding COVID-19 and Criminal Jury Trials

On February 8, 2021, Chief Justice Order No. 8235 allowed presiding judges to grant criminal jury trials upon request. Since that time, COVID-19 case counts have continued a moderate decline, and many more Alaskans have received vaccinations. Judges and court staff have developed procedures designed to reduce the risk of exposure for grand jury proceedings and other hearings. Misdemeanor trials again offer an opportunity to use the same procedures in cases that present the lowest risk of exposure. Therefore, under the authority of Supreme Court Order No. 1957,

IT IS ORDERED:

1. Misdemeanor jury trials may resume on April 19, 2021 under the direction of the presiding judge. The presiding judge may limit or suspend misdemeanor jury trials for any district or location when required for public health or to comply with local health mandates. The presiding judge should consider a suspension when the average daily case rate over 14 days as reported by the Alaska Department of Health and Social Services rises above 20-30 cases per 100,000 population or the local risk level is otherwise seriously elevated.

2. Felony jury trials remain generally suspended until at least June 1, 2021. The continuation of this suspension will be reviewed on or shortly after April 2, 2021. For all criminal cases, the period of delay from March 16, 2020 through June 30, 2021 is excluded in computing the time for trial under Alaska Criminal Rule 45(d). After June 30, the time for trial will continue to be tolled for the time necessary to permit an orderly transition and scheduling.

3. The presiding judge may allow a jury trial during a period of general suspension upon request consistent with public health. A party may request such an order by making a motion to the trial court. The assigned trial court judge shall make findings on all relevant factors and submit a recommendation to the presiding judge for decision.

4. The presiding judge should consider the following factors to determine whether to grant a jury trial during a period of suspension:

    a. The requests of the parties and victim(s);
    b. The age of the case;
    c. Whether the defendant is in custody;
    d. The classification of any charged offense(s);
    e. The number of other required participants, including victims, custodial officers, interpreters, investigators, or other lawyers;
    f. The facilities available for the trial or proceeding;
    g. The prejudice suffered by any party;
    h. The defendant's access to counsel;
    i. Any special transportation requirements;
    j. Any local quarantine requirements or other health mandates;
    k. The COVID-19 case counts and risk levels for the area or location; and
    l. Any special health considerations for the trial participants.

The presiding judge and the assigned trial judge may use these same factors to determine the priority of felony and misdemeanor cases scheduled for trial.

5. Jury trials shall be conducted in accordance with the guidance set out in the Alaska Court System Conducting Criminal and Civil Jury Trials, and Grand Jury During the COVID-19 Pandemic (https://public.courts.alaska.gov/web/covid19/docs/conducting-trials-gj-pandemic.pdf).

6. Some presumptive district court trial sites do not have a courtroom large enough to accommodate a misdemeanor jury trial with appropriate social distancing. Jury trials assigned to the following trial sites will be temporarily relocated unless court

administration can obtain an alternate local facility large enough to accommodate a misdemeanor jury trial:

a. Angoon trials will be held in Sitka;
b. Hoonah and Yakutat trials will be held in Juneau;
c. Kake trials will be held in Petersburg;
d. Unalakleet trials will be held in Nome;
e. St. Paul and Sand Point trials will be held in Anchorage;
f. Naknek trials will be held in Dillingham;
g. Fort Yukon trials will be held in Fairbanks.

7. The locations listed in Administrative Bulletin 27 will not be available as additional trial sites for six-person juries (Kake and Point Hope).

8. The trial judge may expand the selection area to provide a representative cross-section of the appropriate community as provided in Administrative Rule 15(h)(3).

DATED: March 1, 2021

Joel H. Bolger
Chief Justice

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