IN THE SUPREME COURT OF THE STATE OF ALASKA

SPECIAL ORDER OF THE CHIEF JUSTICE

ORDER NO. 8235

CORRECTED

Update regarding COVID-19 and Criminal Jury Trials

On November 25, 2020, Chief Justice Order No. 8213 suspended criminal jury trials until at least March 15, 2021. Since that time, COVID-19 case counts have substantially declined in most areas of the state, but the situation remains uncertain. The Alaska Department of Health and Social Services reports that most regions of Alaska remain in high alert status with widespread community transmission. More contagious strains of the coronavirus have appeared across the globe, and at least one such variant has been detected in Alaska. On the other hand, Alaska reportedly leads the nation in per capita coronavirus vaccinations. These circumstances require a cautious approach to reopening jury trials, allowing the first opportunity to parties who request them.

IT IS ORDERED:

1. Beginning March 15, 2021, a presiding judge may allow an in-person criminal jury trial 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. When making this decision, the presiding judge should consider all relevant factors, including:

    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 parties' agreements to jury selection procedures that promote the safety of the proceeding such as a reduced jury size, videoconference jury selection, or a reduction in peremptory challenges;
h. The prejudice suffered by any party;
i. The defendant's access to counsel;
j. Any special transportation requirements;
k. Any local quarantine requirements or other health mandates;
l. The COVID-19 case counts and risk levels for the area or location; and
m. Any special health considerations for the trial participants.

2. Otherwise, criminal jury trials remain generally suspended until at least April 19, 2021. The continuation of this suspension will be reviewed on or shortly after February 26, 2021. For all criminal cases, the period of delay from March 16, 2020 through May 17, 2021 is excluded in computing the time for trial under Alaska Criminal Rule 45(d). After May 17, the time for trial will continue to be tolled for the time necessary to permit an orderly transition and scheduling.

3. The presiding judge and the assigned trial judge may use the factors listed in paragraph 1 to determine the priority of cases scheduled for trial. The presiding judge may approve a request for a jury trial to be conducted by videoconference by agreement of the parties. All other court proceedings shall be conducted by teleconference or videoconference whenever possible.

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

5. The active district court judges throughout the state shall continue to serve pro tempore as superior court judges for all of the priority hearings listed in Chief Justice Order No. 8131, except sentencing proceedings in class A and unclassified felony cases.

DATED: February 8, 2021

Joel H. Bolger
Chief Justice

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