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OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Serial: **231687**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2020-AD-00001-SCT

IN RE: EMERGENCY ORDER RELATED TO CORONAVIRUS (COVID-19)

EMERGENCY ADMINISTRATIVE ORDER-11

The Court continues to monitor the COVID-19 pandemic and enters Orders as empirical data and changing circumstances dictate. Local judges and their staff, in conjunction with local bar associations and elected officials, remain in the best position to balance the public-health risks in their communities related to COVID-19, while fulfilling their constitutional and statutory duty to keep our courts open.

Our first Emergency Administrative Order was entered on March 13, 2020. Since then, this Court has monitored and closely scrutinized the empirical data provided by the Mississippi State Department of Health ("MSDH") and has consulted with the State Health Officer, Dr. Thomas Dobbs, and State Epidemiologist, Dr. Paul Byers, regarding the impact of COVID-19 on the citizens of our State. The most recent MSDH-published data[1] reflects that of Mississippi's eighty-two counties, only one county has reported zero cases, and forty counties have reported two or fewer deaths.[2] Nearly forty-

[1]*See* https://msdh.ms.gov/msdhsite/_static/14,0,420.html

[2]The following counties have reported two or fewer deaths: Alcorn, Amite, Benton, Choctaw, Claiborne, Copiah, Covington, Franklin, George, Greene, Grenada, Issaquena, Jasper, Jefferson, Jefferson Davis, Lawrence, Leake, Marshall, Montgomery, Newton, Noxubee, Panola, Perry, Pontotoc, Prentiss, Quitman, Sharkey, Simpson, Stone, Tallahatchie,

three percent of all deaths in Mississippi were residents in long-term care facilities. And only seven of the 396 reported deaths occurred without significant, multiple underlying conditions.[3] Additionally, nearly eighty-eight percent of all deaths in Mississippi were persons sixty years and older; only one death occurred in an individual twenty-nine years or younger; and there have been no deaths in persons eighteen years or younger.

Based on the latest information available to the Court, we find that modification of our prior Emergency Administrative Orders is warranted.

IT IS THEREFORE ORDERED:

1. In counties with two or fewer reported deaths attributed to COVID-19 by the MSDH as of the date of entry of this Order,[4] judges may instruct their clerks that jury summonses may be sent to jurors that would be returnable on or after May 18, 2020. The jury summonses should include a separate document to alert prospective jurors of recognized grounds for juror excuse and/or exemption, and should address illness and/or personal-hardship excuses related to COVID-19. *See, e.g.*, Miss. Code Ann. §§ 13-5-23, 13-5-25 (Rev. 2019). In such counties, individual judges also have the discretion to postpone jury trials through June 12, 2020.

Tate, Tishomingo, Tunica, Walthall, Warren, Wayne, Webster, Winston, Yalobusha, and Yazoo.

[3]The most significant underlying conditions referenced are hypertension, cardiovascular disease, diabetes, obesity, lung disease, neurological conditions, renal disease, immuno-compromised, and liver disease.

[4]*See* footnote 2 *supra*.

2. In all other counties, judges shall instruct their clerks that jury summonses should not be sent to jurors that would be returnable to any date prior to June 15, 2020. The jury summonses should include a separate document to alert prospective jurors of recognized grounds for juror excuse and/or exemption, and should address illness and/or personal-hardship excuses related to COVID-19. *See, e.g.*, Miss. Code Ann. §§ 13-5-23, 13-5-25.

3. Each judge presiding over drug-intervention courts is authorized to modify the scheduling of drug testing and home-supervision visits as they see fit through June 12, 2020.

4. We continue to urge limits on in-person courthouse contact, when appropriate, by utilizing available technologies, including electronic filing, teleconferencing, and videoconferencing. Consistent with prior Emergency Administrative Orders, to the extent that the utilization of remote technologies is prohibited, unavailable, or otherwise not feasible, certain in-person proceedings shall continue to be conducted in all local and state courts including, but not limited to:

a. Proceedings directly related to:

(1) Protecting the constitutional rights of all persons;

(2) Habeas corpus;

(3) Emergency child-custody orders;

(4) Relief from abuse and orders of protection;

(5) Mandatory youth court detention hearings for youth held in custody;

(6) Emergency mental-health orders;

(7) Emergency protection of elderly or vulnerable persons;

(8) Petitions for temporary injunctive relief;

(9) Issues involving the COVID-19 public-health emergency;

(10) Obtaining arrest and search warrants, and other proceedings required by law enforcement;

(11) Felony plea hearings;

(12) Ensuring the Mississippi Judiciary has met its constitutional requirements.

b. Department of Child Protection Services emergency matters related to child protection.

c. Any other emergency and time-sensitive matters, in the discretion of individual judges.

5. The trial courts remain authorized to exercise their sound discretion in controlling their general dockets (e.g., setting deadlines, scheduling hearings and non-jury trials) by case-specific actions or general orders, subject to compliance with any applicable provisions of Paragraphs 1, 2, and 4. Judges and chancellors throughout the State have been innovative in reducing the number of in-person proceedings, but now have expressed a desire to reinstitute in-person proceedings, taking into consideration any objection by the parties and/or their attorneys. Nothing in this Order prohibits a court from conducting in-person, non-jury proceedings, so long at that court utilizes appropriate caution and prudence, and remains compliant with prior Orders of this Court and the guidelines issued by the MSDH and the Centers for Disease Control and Prevention ("CDC"). In extending such discretion, the Court notes that the CDC has observed that "[e]ach community is unique" and "appropriate mitigation strategies will vary based on the level of community transmission,

characteristics of the community and their populations, and the local capacity to implement strategies." Moreover, the specific resources and the nature of facilities vary across the State (e.g., courtroom and courthouse layouts, the number of judicial employees, alternative buildings which may be designated by the boards of supervisors and found lawfully designated by the acting judge). Since the MSDH has deemed this "a rapidly changing situation[,]" which it and the CDC "continue to closely monitor[,]" judges are urged to consult the available resources disseminated by those agencies for current information in making all determinations and their decisions which implicate in-person courthouse contact (e.g., recommendations on capacity limitations for gatherings; social distancing; personal-protective measures, including face coverings). *See* https://msdh.ms.gov/msdhsite/_static/14,0,420.html and https://cdc.gov/coronavirus/2019-ncov/community/index.html

6. All other portions of earlier Emergency Administrative Orders that have not been modified and/or amended by this Order remain in full force and effect.

7. It is the Judiciary's responsibility to ensure constitutional rights are protected during this national emergency. This Order may be amended, extended, or otherwise modified, as circumstances may dictate.

SO ORDERED, this the 7 day of May, 2020.

MICHAEL K. RANDOLPH,
CHIEF JUSTICE