Serial: **230902**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2020-AD-00001-SCT

FILED

MAR 18 2020

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

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

EMERGENCY ADMINISTRATIVE ORDER-4

Before the Court is a letter motion filed by the Office of the State Public Defender, "after conversing with public defenders and criminal justice advocates throughout the State." The motion prays that the Court consider "modification of the Emergency Administrative Order to facilitate and clarify procedures available for conducting initial appearances and bail review hearings." This request by the State Public Defender is made to "minimize the number of people who enter detention facilities." The motion specifically requests that the requirement in Rule 1.8 of the Mississippi Rules of Criminal Procedure that "defense counsel be present at the location with the defendant during the proceedings" be temporarily suspended.

Laudably, Attorney General Lynn Fitch replied to the motion, supporting the "pragmatic solution during these extraordinary times." The Attorney General's response reads that "after speaking with several prosecutors and local district attorneys," all agreed that "temporarily suspending Rule 1.8 would provide flexibility to all who face the uncertainty of the weeks ahead."

The Supreme Court finds this motion to be well taken. The State is in agreement that the requirement of Rule 1.8 that "defense counsel be present at the location with the defendant during the proceedings" should temporarily suspended. Thus we find that the request should be granted. Finally, we find that the Office of the State Public Defender and the State should be granted the authority to develop procedures based on available technology to ensure that people have access to the courts at this critical time while minimizing the risk of bringing this potentially deadly virus into one of our detention centers.

IT IS THEREFORE ORDERED that the requirement of Rule 1.8 of the Mississippi Rules of Criminal Procedure—that "defense counsel be present at the location with the defendant during the proceedings"—is temporarily suspended. This does not suspend the requirement for defense counsel to participate in the proceeding.

IT IS FURTHER ORDERED that the Office of the State Public Defender and the State are granted the authority to develop procedures based on available technology to ensure that people have access to the courts at this critical time while minimizing the risk of bringing this potentially deadly virus into one of our detention centers.

SO ORDERED, this the 18 day of March, 2020.

MICHAEL K. RANDOLPH,
CHIEF JUSTICE