IN THE SUPREME COURT OF THE STATE OF ALASKA

SPECIAL ORDER OF THE CHIEF JUSTICE

ORDER NO. 8213

Update regarding COVID-19 and Jury Trials

On November 12, Governor Dunleavy issued an emergency alert requiring all executive branch employees to work from home whenever feasible and urging other organizations that can operate remotely to allow their employees to work from home. Since that time, case counts across the state have continued to escalate. On November 24, the statewide alert level based on the average daily case rate over 14 days was high at 77 cases per 100,000 population. All regions have widespread community transmission with an average daily case rate of 137.91 cases per 100,000 for the Y-K Delta Region and 112.71 cases per 100,000 for the Anchorage Municipality. News reports indicate that the first shipments of COVID-19 vaccine could be arriving in Alaska in just a few weeks, but vaccines probably won't be available to the general public until March 2021. The court system has devised procedures to allow trials with social distancing and other protective measures, but to start public trials at this time would be unduly dangerous. Therefore, under the authority of Supreme Court Order No. 1957,

IT IS ORDERED:

1. All criminal jury trials remain suspended until at least March 15, 2021. The period of delay through March 15, 2021 is excluded in computing the time for trial under Alaska Criminal Rule 45(d). When this suspension is lifted, the time for trial will continue to be tolled for the time necessary to permit an orderly transition and scheduling. The continuation of this suspension will be reviewed on or shortly after January 29, 2021.

2. All in-person grand jury proceedings are suspended until at least February 1, 2021. The time limit for preliminary examination under Alaska Criminal Rule 5(e) is extended through March 15, 2021. The time limit may be extended thereafter by the district court as provided in that rule or by the presiding judge as authorized by Supreme Court Order No. 1957. The continuation of this statewide suspension will be reviewed on or shortly after January 15, 2021.

3. All in-person civil jury trials are suspended until at least September 7, 2021. This suspension does not apply to trials (such as presumptive death trials) in which videoconference proceedings have been approved. The continuation of this suspension will be reviewed on or shortly after July 23, 2021.

4. The presiding judge may allow an in-person jury trial or in-person grand jury proceeding in exceptional circumstances. A party may request such an order by making a motion to the assigned trial judge. The trial 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 shall consider all relevant factors, including:

    a. The requests of the parties and victim(s);

    b. The age of the case;

    c. Whether a criminal 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. A criminal defendant's access to counsel;

    i. Any special transportation requirements;

    j. Any local quarantine requirements or other health mandates; and

    k. The COVID-19 case counts for the area or location.

5. The suspensions listed above may be lifted or extended by further chief justice order as the pandemic situation warrants. Any trials ordered under paragraph 4 shall follow the jury selection procedures and trial procedures listed in Chief Justice Order No. 8194. Trial judges shall continue to use pretrial conferences and other tools to monitor pretrial discovery, resolve pretrial disputes, and encourage settlement.

6. 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.

DATED: November 25, 2020

Joel H. Bolger
Chief Justice

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