Supreme Court of Florida

No. AOSC20-23
Amendment 1[1]

IN RE: COMPREHENSIVE COVID-19 EMERGENCY MEASURES FOR THE FLORIDA STATE COURTS

ADMINISTRATIVE ORDER

As a result of the Coronavirus Disease 2019 (COVID-19) pandemic, the State Surgeon General and State Health Officer on March 1, 2020, declared that a public health emergency exists in Florida, and the Governor on March 9, 2020, declared a state of emergency for the entire state. The Florida state courts have taken measures to mitigate the effects of this public health emergency upon the judicial branch and its participants. To that end, I have issued several

1. This administrative order is issued to revise section III.A. (Jury Proceedings and Jury Trials) by providing that all grand jury proceedings, jury selection proceedings, and criminal and civil jury trials shall remain suspended through July 2, 2020; section III.C. (Non-essential and Non-critical Court Proceedings) by specifying the types of proceedings the circuit and county courts should conduct remotely; section IV.A. (Speedy Trial) by providing that all time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended through the close of business on Monday, July 6, 2020; section IV.B. (Persons Arrested for First Degree Murder) by providing that, with regard to persons arrested for first degree murder, all time periods under Florida Rules of Criminal Procedure 3.133(b) and 3.134 shall remain suspended through July 2, 2020; and section VI. (Speedy Trial Procedure in Noncriminal Traffic Infraction Court Proceedings) to conform with revised section III.C. Additionally, footnote 10 was amended to reflect the revisions to section III.C.

administrative orders implementing temporary measures essential to the administration of justice during the COVID-19 pandemic.[2] The overarching intent of those orders has been to mitigate the impact of COVID-19, while keeping the courts operating to the fullest extent consistent with public safety.

This order extends, refines, and strengthens previously enacted temporary remedial measures. The measures shall remain in effect until the close of business on May 29, 2020, unless a different end date is indicated herein or as provided by subsequent order.

Under the administrative authority conferred upon me by article V, section 2(b) of the Florida Constitution and by Florida Rules of Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v),

IT IS ORDERED that:

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2. *In re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020); *In re: COVID-19 Essential and Critical Trial Court Proceedings*, Fla. Admin. Order No. AOSC20-15 (March 17, 2020); *In re: COVID-19 Emergency Procedures for the Administering of Oaths via Remote Audio-Video Communication Equipment*, Fla. Admin. Order No. AOSC20-16 (March 18, 2020); *In re: COVID-19 Emergency Measures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-17 (March 24, 2020); *In re: COVID-19 Emergency Procedures in Relation to Visitation for Children Under the Protective Supervision of the Department of Children and Families*, Fla. Admin. Order No. AOSC20-18 (March 27, 2020); and *In re: COVID-19 Emergency Procedures for Speedy Trial in Noncriminal Traffic Infraction Court Proceedings*, Fla. Admin Order No. AOSC20-19 (March 30, 2020).

I. GUIDING PRINCIPLES

A. The presiding judge in all cases must consider the constitutional rights of crime victims and criminal defendants and the public's constitutional right of access to the courts.

B. To maintain judicial workflow to the maximum extent feasible, chief judges are directed to take all necessary steps to facilitate conducting proceedings with the use of technology.

C. Nothing in this order is intended to limit a chief judge's authority to conduct court business or to approve additional court proceedings or events (except for grand jury proceedings, jury selection proceedings, and criminal and civil jury trials, all of which are suspended) that are required in the interest of justice, if doing so is consistent with protecting the health of the participants and the public health.

D. Judges and court personnel who can effectively conduct court and judicial branch business from a remote location shall do so.

II. USE OF TECHNOLOGY

A. All rules of procedure, court orders, and opinions applicable to court proceedings that limit or prohibit the use of communication equipment for conducting proceedings by remote electronic means shall remain suspended.[3]

B. The chief judge of each judicial circuit remains authorized to establish temporary procedures for the use, to the maximum extent feasible, of communication equipment for the conducting of proceedings by remote electronic means, as are necessary in their respective circuits due to the public health emergency.[4]

C. Administering of Oaths

(1) Notaries and other persons qualified to administer an oath in the State of Florida may swear a witness remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the witness.[5]

(2) If a witness is not located within the State of Florida, a witness may consent to being put on oath via audio-video communication

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3. This measure initially went into effect at the close of business on March 13, 2020. (AOSC20-13).

4. This measure initially went into effect on Friday, March 13, 2020. (AOSC20-13).

5. This measure initially went into effect on March 18, 2020. (AOSC20-16).

technology by a person qualified to administer an oath in the State of Florida.[6]

(3) All rules of procedure, court orders, and opinions applicable to remote testimony, depositions, and other legal testimony, including the attestation of family law forms, that can be read to limit or prohibit the use of audio-video communications equipment to administer oaths remotely or to witness the attestation of family law forms, shall remain suspended.[7]

(4) Notaries and other persons qualified to administer an oath in the State of Florida may swear in new attorneys to The Florida Bar remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the new attorney.

(5) For purposes of the provisions regarding the administering of oaths, the term "positively identify" means that the notary or other qualified person can both see and hear the witness or new attorney via audio-video communications equipment for purposes of readily identifying the witness or new attorney.

6. This measure initially went into effect on March 18, 2020. (AOSC20-16).
7. This measure initially went into effect on March 18, 2020. (AOSC20-16).

III. COURT PROCEEDINGS

A. Jury Proceedings and Jury Trials. All grand jury proceedings, jury selection proceedings, and criminal and civil jury trials shall remain suspended through July 2, 2020.[8]

B. Essential and Critical Trial Court Proceedings.[9]

(1) All circuit and county courts shall continue to perform essential court proceedings, including but not limited to: first appearance; criminal arraignments as necessary; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.

(2) In addition to essential proceedings, all circuit and county courts shall perform, as necessary and applicable, critical proceedings related to the

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8. This measure initially went into effect on March 16, 2020. (AOSC20-13).

9. These measures initially went into effect on March 17, 2020. (AOSC20-15).

state of emergency or the public health emergency, including but not limited to proceedings related to: violation of quarantine or isolation; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders.

(3) It is recognized that certain essential or critical trial court proceedings in some jurisdictions may in extraordinary, limited circumstances be unavoidably delayed due to the exigencies of the ongoing emergency. When this occurs, chief judges are required to take all steps feasible to minimize the delay.

(4) In conducting essential proceedings and proceedings critical to the state of emergency or the public health emergency, circuit and county courts shall employ all methods feasible to minimize risk of COVID-19 exposure to individuals involved in the proceedings or the general public.

C. Non-essential and Non-critical Court Proceedings.[10] Each chief judge shall continue to review cases and court events and the communications technology resources available to the circuit, each county, and each judge. The Workgroup on the Continuity of Court Operations and Proceedings During and

10. A measure related to these proceedings initially went into effect on March 17, 2020. (AOSC20-15). Substantial revisions are made by this amended order.

After COVID-19 has determined that the following proceedings are amenable to being conducted remotely:

(1) Alternative dispute resolution proceedings;

(2) Status, case management, and pretrial conferences in all case types;

(3) Non-evidentiary and evidentiary motion hearings in all case types;

(4) Arraignments and pleas in absentia in county court misdemeanor cases;

(5) Hearings in juvenile delinquency cases;

(6) Hearings in noncriminal traffic infraction cases;

(7) Problem-solving court staffings, hearings, and wellness checks; and

(8) Non-jury trials in all case types, except for criminal, juvenile delinquency, and termination of parental rights petitions in dependency cases unless the parties in an excepted case agree to the remote conduct of a non-jury trial.

It is hereby ordered that each of the above-listed proceedings shall be conducted using telephonic or other electronic means available in the subject jurisdiction unless a judge determines that remote conduct of the proceeding:

- Is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or

- Would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.

Chief judges shall take all necessary steps to ensure that the above-listed proceedings are conducted to the fullest extent possible, consistent with the guidance established in this section.

D. Limits on In-person Hearings.[11] No proceedings or other court events other than essential proceedings and proceedings critical to the state of emergency or the public health emergency shall be conducted through in-person hearings.

IV. SUSPENSION OF TIME PERIODS IN CERTAIN RULES OF CRIMINAL PROCEDURE

A. Speedy Trial.[12] All time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended through the close of business on Monday, July 6, 2020. This suspension shall be applied in the manner described in *Sullivan v. State*, 913 So. 2d 762 (Fla. 5th DCA 2005), and *State v. Hernandez*, 617 So. 2d 1103 (Fla. 3rd DCA 1993). The suspension of time

11. This measure initially went into effect on March 17, 2020. (AOSC20-15).

12. This measure initially went into effect at the close of business on March 13, 2020. (AOSC20-13 and AOSC20-17).

limits under the speedy trial procedure restores additional days equal to the number stated in the previous orders and this order.

B. Persons Arrested for First Degree Murder.[13] With regard to persons arrested for first degree murder, all time periods under Florida Rules of Criminal Procedure 3.133(b) and 3.134 shall remain suspended through July 2, 2020. The suspension of the time limits of Florida Rules of Criminal Procedure 3.133(b) and 3.134 restores additional days equal to the number stated in the previous order and this order.

C. Incompetence to Proceed.[14] Where exigencies make it impossible to meet the 20-day time period in Florida Rule of Criminal Procedure 3.210(b), chief judges of the circuit courts remain authorized to direct judges to hold competency hearings as soon as feasible after the date of filing a motion to determine competency. Chief judges also remain authorized to allow experts and attorneys to conduct and attend competency evaluations by remote means, if feasible.

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13. This measure initially went into effect at the close of business on March 13, 2020. (AOSC20-17).

14. This measure initially went into effect on March 24, 2020. (AOSC20-17).

V. DEFENDANTS ARRESTED ON WARRANT OR CAPIAS FROM ANOTHER FLORIDA JURISDICTION[15]

To mitigate the health risks associated with the incarceration and transportation of defendants during the pandemic, when a defendant is arrested on a warrant or capias from another Florida jurisdiction, chief judges of the circuit courts remain encouraged to facilitate communication between the circuit or county where the case originated ("home court") and the circuit or county where the defendant is incarcerated ("holding court"), for the handling of matters on a temporary basis, as follows:

A. Pretrial Release and First Appearance Hearings. Chief judges remain authorized to direct judges conducting pretrial release and first appearance hearings to address detention and monetary bond or other conditions of pretrial release in the county of arrest, regardless of whether the case is transferred, rather than requiring transport of the defendant to the county where any warrant or capias originated.

For capiases and violation of probation warrants, before setting monetary bond or other conditions of pretrial release, the first appearance judge must obtain relevant information from the issuing judge, and from the state attorney's office(s)

15. These measures initially took effect on March 24, 2020. (AOSC20-17).

if necessary, in order to make a proper decision regarding monetary bond or other conditions of pretrial release.

Action taken by the holding court at first appearance and any pretrial release hearing should be promptly reported to the home court and reflected in the record of the case.

Any provision of Florida Rule of Criminal Procedure 3.131 inconsistent with these measures remains suspended.

B. Pleas. Judges remain encouraged to coordinate with prosecutors, attorneys, defendants, and victims in order to utilize section 910.035, Florida Statutes, which allows for pleas of guilty or nolo contendere for persons arrested in counties outside of the county of prosecution, upon the consent of the defendant and the state attorney in the county where the crime was committed.

C. Rights of Parties. In cases that are not handled by a plea or pretrial release such that the defendant will continue to be detained in the jurisdiction of the holding court for an indefinite period of time, chief judges are directed to ensure that the due process rights of the defendant are protected by facilitating the temporary transfer of the case to the holding court, if necessary; by having a judge from the holding court designated by the Chief Justice, or designated by the chief judge if the home and holding court are within the same circuit, as a judge of the

home court to handle emergency or other necessary matters in the case; or by other appropriate means.

D. Victims. The constitutional rights of crime victims must also be considered in all cases by the presiding judge.

VI. SPEEDY TRIAL PROCEDURE IN NONCRIMINAL TRAFFIC INFRACTION COURT PROCEEDINGS[16]

All time periods involving the speedy trial procedure in noncriminal traffic infraction court proceedings remain suspended. The suspension of time limits under the speedy trial procedure restores additional days equal to the number stated in the previous order and this order.

VII. WRITS OF POSSESSION[17]

The requirement in Florida Rule of Civil Procedure 1.580(a) for the clerk to issue a writ of possession "forthwith" remains suspended.

VIII. FAMILY LAW FORMS[18]

Except as indicated below, the requirement that Florida Family Law Forms be notarized or signed in the presence of a deputy clerk remains suspended, if the filer includes the following statement before the filer's signature:

> Under penalties of perjury, I declare that I have read this document and the facts stated in it are true.

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16. This measure initially took effect on March 13, 2020. (AOSC20-19).
17. This measure initially took effect on March 24, 2020. (AOSC20-17).
18. This measure initially took effect on March 24, 2020. (AOSC20-17).

This exception does not apply to Florida Family Law Forms 12.902(f)(1), Marital Settlement Agreement for Dissolution of Marriage with Dependent or Minor Child(ren), 12.902(f)(2), Marital Settlement Agreement for Dissolution of Marriage with Property but No Dependent or Minor Child(ren), 12.902(f)(3), Marital Settlement Agreement for Simplified Dissolution of Marriage, and any other family law form that transfers the ownership of property, which must continue to be notarized or signed in the presence of a deputy clerk prior to filing.

IX. VISITATION FOR CHILDREN UNDER THE PROTECTIVE SUPERVISION OF THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES (DCF)[19]

Requirements for in-person visitation pursuant to circuit court orders entered under chapter 39, Florida Statutes, remain suspended. This order does not affect in-person visitations when all parties and the caregiver agree that the visitation can take place in a manner that does not pose a health threat.

In lieu of in-person visitation, visitation shall be conducted through electronic means with video communication as the preferred means, although telephonic contact is permitted if video communication is not feasible.

19. These measures initially took effect on March 27, 2020. (AOSC20-18).

The suspension of in-person visitation applies to parent-child visitation, sibling visitation, and visitation between children and other family members and non-relatives.

If a party seeks to reinstate in-person visitation while the suspension of in-person visitation requirements remains in effect, such reinstatement shall be determined on a case-by-case basis by the circuit court with jurisdiction over that party's case. Reinstatement of in-person visitation may be ordered if the court determines that it will not jeopardize the health, safety, and well-being of all children and adults (including caregivers) who will be affected by the in-person visitation.

Nothing in these provisions regarding visitation for children under the protective supervision of the DCF overrides existing circuit administrative orders to the extent that those orders are not in conflict with this order. Circuits may enter additional administrative orders addressing visitation and contact pursuant to chapter 39, Florida Statutes, to the extent that they are not in conflict with this order.

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Additional orders extending or modifying these measures will be issued as warranted by changing circumstances during the public health emergency.

DONE AND ORDERED at Tallahassee, Florida, on May 4, 2020.

AOSC20-23

Chief Justice Charles T. Canady

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ATTEST:

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John A. Tomasino, Clerk of Court

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