

IN THE DISTRICT COURTS OF THE SECOND JUDICIAL DISTRICT, NEBRASKA

IN RE MATTER OF JURY PANELS
DURING THE CURRENT PUBLIC
HEALTH EMERGENCY

Case No. MS20-1

ORDER

FILED
SARPY COUNTY
DISTRICT COURT
2020 MR 18 PM 4:24
D. [Signature]
CLERK DISTRICT COURT

The Court having monitored the current state of emergency involving Novel Coronavirus and COVID-19 has found it essential to the public health and safety to issue the following findings and order:

WHEREAS, the Court finds that the Chief Justice of the Nebraska Supreme Court has issued an Administrative Order In Re Novel Coronavirus and COVID -19 Disease, attached and incorporated by reference herein as Exhibit "A", in which the Chief Justice found that "a public health emergency has been declared by the United States, and guidance from public health officials suggests that one of the most effective ways to protect against the spread of this disease is to limit exposure..." and;

WHEREAS, the United States District Court of the District of Nebraska in General Order NO. 2020-04, attached and incorporated by reference herein as Exhibit "B", suspended federal jury trials in part due to "the Court's inability to safely call and retain an adequate cross section of jurors" due to the existing state of emergency due to Novel Coronavirus and COVID-19; and,

WHEREAS, Michelle Andahl, the duly appointed Sarpy County Election Commissioner responsible for summoning prospective jurors is unable, through no fault or lack of due diligence on her part or that of her office, to perform those duties and comply with the health directives due to the current public health emergency as included in her affidavit attached hereto and incorporated by reference herein as Exhibit "C"; and,

WHEREAS, Dori Heath, Clerk of the Sarpy County District Court duly elected and sworn is unable, through no fault or lack of due diligence on her part or that of her office, to operate her office due to the current public health emergency as set out in her affidavit which is attached and incorporated herein by reference as Exhibit "D"; and,

WHEREAS, Barb Prokupek, Clerk of the Cass County District Court duly elected and sworn is unable, through no fault or lack of due diligence on her part or that of her office, to operate her office due to the current public health emergency as set out in her affidavit which is attached and incorporated herein by reference as Exhibit "E"; and,

WHEREAS, Section 25-1601 Neb. Rev. Stat. permits the district court to excuse any grand or petit juror upon showing of undue hardship or public necessity; and

WHEREAS, the Court, as presiding district court judge for the Second Judicial District finds that based upon the aforementioned emergency, a sufficient showing has been made that undue hardship presently exists in relation to the Novel Coronavirus and COVID-19 such that the jurors called to serve for the next 30 days from the date of this order are excused from service.



C-

IT IS THEREFORE ORDERED that any juror summoned for either grand or petit juries for the Second Judicial District are excused from service for 30 days from the date of this order subject to extension upon further findings consistent with Section 25-1601 Neb. Rev. Stat.

IT IS SO ORDERED this 18th day of March 2020.



Nathan B. Cox, Presiding District Court Judge
Second Judicial District

IN THE SUPREME COURT OF THE STATE OF NEBRASKA

IN RE NOVEL CORONAVIRUS)
AND COVID-19 DISEASE) ADMINISTRATIVE ORDER
) OF THE CHIEF JUSTICE OF
) THE NEBRASKA SUPREME COURT
)

The Court is carefully monitoring the evolving circumstances presented by the spread of the novel coronavirus and the COVID-19 disease. Pursuant to the authority vested in the Chief Justice of the Nebraska Supreme Court under Neb. Const. art. V, § 1 and Neb. Rev. Stat. § 25-2221, the following general administrative order regarding procedures of the judicial branch with respect to the novel Coronavirus and COVID-19 disease is required for the following reasons:

WHEREAS, a public health emergency has been declared in the United States, and guidance from public health officials suggests that one of the most effective ways to protect against the spread of this disease is to limit exposure, particularly to persons at higher risk of developing serious COVID-19 illness;

WHEREAS, conditions in the State of Nebraska at this time do not warrant limiting court or probation operations. However, this order may be updated as conditions change;

IT IS THEREFORE ORDERED, that persons who have an elevated risk of transmitting the novel coronavirus that causes COVID-19, includes anyone who:

- has traveled outside the United States within 14 days of this order, or lives or has close contact with someone who has;
- Persons who have been asked to self-quarantine by any health care provider or public official;
- Persons who have been diagnosed with, or have had contact with anyone who has been diagnosed with COVID-19; or,
- Persons who are presently exhibiting the symptoms of an infectious respiratory illness, which includes fever, cough, or shortness of breath.

Exhibit A

IT IS FURTHER ORDERED that

1) any attorney or party shall promptly notify opposing counsel and the court if they reasonably suspect that a participant in any scheduled hearing, trial, conference, deposition, or other proceeding may come within any of the categories listed above;

2) any attorney or party shall notify the court and opposing counsel if any proceedings relating to the litigation of cases pending before the court would require travel or other actions contrary to guidance set forth by the Centers for Disease Control and Prevention or other foreign or domestic public health officials;

3) to the extent possible, counsel shall affirmatively inquire of their clients and witnesses whether they come within any of those categories;

4) no person who falls within any of those categories shall attend any hearing, trial, conference, deposition, or other proceeding without prior authorization from the court;

5) any probationer, problem solving court participant, or individual under presentence/predisposition investigation who falls within any of those categories shall notify the probation or supervision officer prior to having in-person contact and follow the officer's directives for the duration of the declared public health emergency and continue to comply with all conditions of probation or supervision unless otherwise directed.

IT IS FURTHER ORDERED that no court shall close unless or until the Chief Justice of the Nebraska Supreme Court has issued an order declaring a nonjudicial day. However, courts and probation offices shall devise and implement emergency preparedness plans to carry out mission essential functions.

Dated this 12th day of March, 2020.

BY THE COURT



Michael G. Heavican, Chief Justice

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2020 MAR 13 PM 1:36

IN RE: CONTINUANCES DUE TO
NOVEL CORONAVIRUS AND COVID-
19 DISEASE.

OFFICE OF THE CLERK

GENERAL ORDER NO. 2020-04

The ongoing situation created by the spread of the novel coronavirus first detected in China, and the resulting outbreak of respiratory disease COVID-19 in Nebraska, has reached the point where court operations are affected. There are now several diagnosed cases in the District of Nebraska, and while many people who contract the virus are only mildly affected, others are at higher risk of serious or fatal illness. Many of those at higher risk are involved in court proceedings. And slowing the transmission of the virus in the community is an important part of mitigating the impact of the disease on vulnerable individuals and reducing the immediate burden on the health care system.

The Court maintains a robust capacity for conducting business remotely, and many court operations can and will continue unimpeded. But obviously, not all of the Court's work can be completed at a distance. In particular, the need for in-court hearings must be balanced against the risk associated with such contact, and jury proceedings are inadvisable in the current environment. "The American tradition of trial by jury, considered in connection with either criminal or civil proceedings, necessarily contemplates an impartial jury drawn from a cross-section of the community." *Thiel v. S. Pac. Co.*, 238 U.S. 217, 220 (1946). But that very cross-section—drawing together diverse members of the community—is against the best guidance of public health officials. Moreover, even assuming that the Court could draw a willing and able venire and try a case to submission, there is presently no way to assure that the jury's deliberations are unaffected by conflicting health and safety concerns. Accordingly,

Exhibit B

IT IS ORDERED:

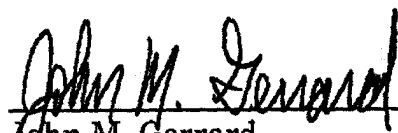
1. All civil and criminal matters scheduled for a jury trial to commence during the month of March 2020 before any judge in the District of Nebraska are continued pending further order of the Court. Other in-court hearings shall remain scheduled unless continued, on a case-by-case basis, by the district, magistrate, or bankruptcy judge. As provided by General Order 2020-03, the parties shall promptly notify one another and the Court if they have cause to believe that any such hearing cannot be held in a manner consistent with public health guidelines.
2. All grand jury proceedings that are scheduled in the District of Nebraska during the month of March 2020 are continued pending further order of the Court.
3. Because of the Court's inability to safely call and retain an adequate cross-section of jurors, and the effect of following public health recommendations on the availability of clients, counsel, and court staff to be present in the courtroom, the Court specifically finds that the ends of justice served by continuing all criminal proceedings outweigh the best interests of the public and any defendant's right to a speedy trial, and the period of delay occasioned by the continuances implemented by this General Order are excluded under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A). The failure of any defendant to object to this General Order will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.
4. Case progression deadlines in civil cases shall remain provisionally set, pending any case-specific adjustments to be made on motion from the parties or on the Court's own motion. Parties are encouraged to explore conducting discovery through means that avoid unnecessary travel or

personal contact, such as telephonically or through videoconferencing. Any dispute over whether discovery can be effectively accomplished in a manner consistent with applicable public health guidelines may be referred to the Magistrate Judge for resolution, specifically subject to the consultation requirements of NECivR 7.1(j).

5. While some court employees may be assigned to work remotely, the District's courthouses shall remain open, electronic filings will be processed, and the intake desk shall remain available for non-electronic filings. Staff in judge's chambers and the Clerk's Offices for the District Court and Bankruptcy Court will be available by telephone and email, and mail will be received. The public and the practicing bar are encouraged to continue using court services while following all applicable public health guidelines.
6. The Court will vacate, extend, or amend this General Order no later than March 31, 2020.

Dated this 13th day of March, 2020.

BY THE COURT:



John M. Gerrard
Chief United States District Judge

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

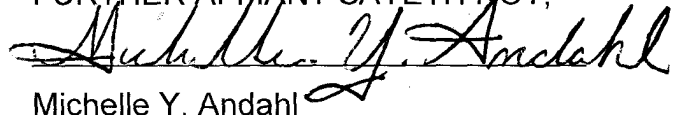
In the matter of)
Jurors)
For the County Court and District Court)
Of the Second Judicial District of)
Nebraska.)

AFFIDAVIT OF MICHELLE Y. ANDAHL

MICHELLE Y. ANDAHL, being first sworn to tell the truth, makes the following statement:

1. I am the Sarpy County Jury Commissioner. My office address is 501 Olson Drive, Suite 4, Papillion, Nebraska 68046.
2. As the Jury Commissioner for the Second Judicial District, it is my duty to summon prospective jurors under Neb. Rev. Stat. §§ 25-1601 – 25-1643.
3. The County Court and District Court of the Second Judicial District have numerous upcoming jury trials.
4. The process of notifying and impaneling jurors will require the public gathering of citizens of Sarpy County that require no less than 50 people.
5. I am aware of the recommendations and restrictions currently in place by the Center for Disease Control (CDC), the Sarpy/Cass County Health Department, the Nebraska Department of Health and Human Services (DHHS), as well as surrounding cities and counties, limiting the number of persons present at a public gathering to no more than ten (10) people.
6. Properly impaneling the required number of prospective jurors will violate the public gathering limits set forth by the CDC and other entities.
7. The COVID-19 pandemic has raised public health and safety concerns within the Sarpy County Jury Commissioner office. As such, I have implemented safety measures within the office to protect my staff and the public we serve.
8. I am unable to notify and impanel the required number of prospective jurors without compromising the safety of the citizens of Sarpy County and my office staff.

FURTHER AFFIANT SAYETH NOT,


Michelle Y. Andahl

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

In the matter of)
Jurors)
For the County Court and District Court) AFFIDAVIT OF DORI HEATH
Of the Second Judicial District of)
Nebraska.)

DORI HEATH, being first sworn to tell the truth, makes the following statement:

1. I am the Sarpy County Clerk of the District Court. My office address is 1210 Golden Gate Drive, Suite 3141, Papillion, Nebraska 68046.
2. The County Court and District Court of the Second Judicial District have numerous upcoming jury trials.
3. The process of impaneling jurors will require the public gathering of citizens of Sarpy County that require no less than 50 people.
4. I am aware of the recommendations and restrictions currently in place by the Center for Disease Control (CDC), the Sarpy/Cass County Health Department, the Nebraska Department of Health and Human Services (DHHS), as well as surrounding cities and counties, limiting the number of persons present at a public gathering to no more than ten (10) people.
5. Properly impaneling the required number of prospective jurors will violate the public gathering limits set forth by the CDC and other entities.
6. The COVID-19 pandemic has raised public health and safety concerns within the Sarpy County Clerk of the District Court office. As such, I have implemented safety measures within the office to protect my staff and the public we serve.
7. I am unable to impanel the required number of prospective jurors without compromising the safety of the citizens of Sarpy County and my office staff.

FURTHER AFFIANT SAYETH NOT,


Dori Heath

IN THE DISTRICT COURT OF CASS COUNTY, NEBRASKA

In the matter of)
Jurors)
For the County Court and District Court) AFFIDAVIT OF
Of the Second Judicial District of) BARBARA PROKUPEK
Nebraska.)

State of Nebraska)
County of Cass)

BARBARA PROKUPEK, being first sworn to tell the truth, makes the following statement:

1. I am the Cass County Clerk of the District Court. My office address is 346 Main Street, Room #303, Plattsmouth, Nebraska 68048
2. As the Cass County Clerk of the District Court for the Second Judicial District, it is my duty to summon prospective jurors under Neb. Rev. Stat. §§ 25-1601 – 25-1643.
3. The County Court and District Court of the Second Judicial District have numerous upcoming jury trials.
4. The process of notifying and impaneling jurors will require the public gathering of citizens of Cass County that require no less than 50 people.
5. I am aware of the recommendations and restrictions currently in place by the Center for Disease Control (CDC), the Sarpy/Cass County Health Department, the Nebraska Department of Health and Human Services (DHHS), as well as surrounding cities and counties, limiting the number of persons present at a public gathering to no more than ten (10) people.
6. Properly impaneling the required number of prospective jurors will violate the public gathering limits set forth by the CDC and other entities.
7. The COVID-19 pandemic has raised public health and safety concerns within the Cass County Clerk of the District Court office. As such, I have implemented safety measures within the office to protect my staff and the public we serve.
8. I am unable to notify and impanel the required number of prospective jurors without compromising the safety of the citizens of Cass County and my office staff.

FURTHER AFFIANT SAYETH NOT,

Barbara Prokupek

Barbara Prokupek

Signed and sworn to before me this 18 day of March, 2020.



Debra K Dubas

Notary Public

Exhibit _____