

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

FOURTH ORDER CONCERNING JUDICIAL EMERGENCY

The Chief Justice of the Supreme Court of Virginia having entered an Order dated April 22, 2020, extending the judicial emergency through May 17, 2020, it is hereby ORDERED that, except as herein modified, this Court's Order and Second and Third Orders Concerning Judicial Emergency of March 17, 19, and 30, 2020, are extended through May 18, 2020. It is further ORDERED:

All criminal and civil jury trials now scheduled in May 2020 are continued.

The grand jury scheduled for May 6, 2020 will proceed with one grand jury panel. All witnesses to be called to testify in front of the grand jury must testify remotely via videoconference. The jurors will be seated so that they are not within six feet of each other or anybody else. There will be no more than ten people assembled in a room for this proceeding.

All criminal scheduling conferences and counsel determination hearings currently set for May 6, 2020 are CONTINUED to June 17, 2020.

Criminal and civil non-jury trials may continue to be set with the appropriate docket clerk for dates beginning May 18, 2020.

Criminal jury trials may continue to be set with the appropriate docket clerk for dates beginning June 1, 2020.

Civil jury trials may continue to be set with the appropriate docket clerk for dates beginning July 1, 2020.

The civil scheduling conferences set on May 8, 2020, at 2:30 p.m. are continued to June 5, 2020, at 2:30 p.m.

Unless otherwise agreed by the parties, only the civil trial dates are continued. All discovery-related deadlines and cut-offs established on the scheduling order, are unaffected.

Juror show causes to be heard through May 7, 2020, are cancelled. None are presently set thereafter.

The Chief Justice's memorandum to the judges of April 10, 2020, allows "to the extent authorized by law and with the consent of all parties, attorneys, and witnesses" the conduct of any criminal or civil matter by two-way secure electronic audio-visual communication or by telephone.

To conclude criminal cases, and to give the Sheriff of Norfolk release dates for certain defendants now in his custody, the Court will hear guilty pleas and probation violations, and conduct sentencing hearings with the defendant appearing remotely and with the limitations herein provided, which the Court adopts to protect attorneys and court personnel by keeping the number of people in a courtroom to a minimum:

A. Guilty Pleas:

1. the defendant must be in the custody of the Sheriff of Norfolk;
2. there must be a written plea agreement with a recommended active sentence of 18 months or less that does not request a pre-sentence report or an evaluation for CCAP or any of this Court's therapeutic dockets;
3. the low-end of the defendant's sentencing guidelines does not exceed 18 months;
4. neither the Commonwealth nor the defendant will call any witnesses other than the defendant;
5. the Commonwealth must represent to the Court that the victim of the crime has been consulted and either waives his or her right to address the Court,

Constitution of Virginia, Art. I § 8-A, or is prepared to do so from a remote location by videoconference or telephone; and

6. the attorney for the defendant has met with the defendant to review all documents and has obtained the defendant's signature on the plea agreement, the stipulation of facts, the "advice to defendants pleading guilty" form, and the restitution order (if applicable).

B. Sentencing Hearings:

1. subparagraphs 1, 3, 4, and 5 under "Guilty Pleas" apply;
2. the defendant is not requesting an evaluation for CCAP or any of this Court's therapeutic dockets;
3. the Commonwealth is not asking for an active sentence exceeding 18 months; and
4. the pre-sentence report has been received; no pre-sentence report was ordered; or, if a pre-sentence report was ordered and has not yet been received, the party requesting the report waives it.

C. Probation Violations

1. subparagraphs 1, 3, and 4 under "Guilty Pleas" and subparagraphs 2 and 3 under "Sentencing Hearing" apply; and
2. there is no objection to the contents of the major violation report or the document instituting a good behavior violation.

The Court is neither attempting to encourage defendants who maintain their innocence to plead guilty nor to pressure the Commonwealth or the defendant to give up the right to present a pre-sentence report or in-court witnesses at a sentencing or probation violation hearing.

However, in the experience of the judges of this Court, at many such hearings neither side calls

witnesses. Should witness testimony be required, the Court's audio-visual system can accommodate the remote presentation of such testimony.

The Court wishes to allow defendants who acknowledge their guilt and are likely to receive a sentence that will not cause them to be transported to the Department of Corrections to conclude their cases, learn their release dates, and not languish in jail for an indefinite period.

As the Court stated in its Order of March 17, 2020, the Court will also hear in person such other matters as a judge of this Court may allow if compelling cause is shown and, as mentioned above, any criminal or civil matter by two-way secure electronic audio-visual communication or by telephone.

The Clerk is ORDERED to post a copy of this order on his website and at the entrance to the Courthouse.

ENTER: April 23, 2020



CHIEF JUDGE