

20S-CB-126

STATE OF INDIANA
IN THE SCOTT CIRCUIT AND SUPERIOR COURTS

IN RE: THE MATTER OF REQUESTING
RELIEF UNDER INDIANA ADMINISTRATIVE
RULE 17

CAUSE NO. 72C01-2003-CB-8

PETITION FOR RELIEF UNDER INDIANA ADMINISTRATIVE RULE 17

Comes now the Circuit and Superior Courts of Scott County, Indiana and petition the Supreme Court for relief under Indiana Administrative Rule 17. In support of this petition, the Courts inform the Supreme Court as follows:

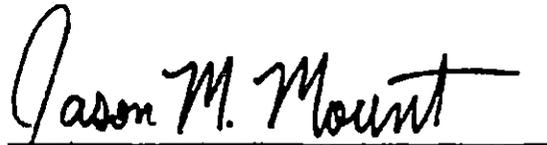
1. That the judges of the Scott Circuit and Superior Courts have convened *en banc* and have determined:
 - a. A meeting was held with judicial stakeholders, including the Scott County Health Department, the County Commissioners, the County Attorney, the Sheriff, the Prosecuting Attorney, the Probation Department, and the County Public Defender on Friday, March 13, 2020 where the plan herein described and requested was discussed and vetted;
 - b. The World Health Organization has determined the outbreak of COVID-19 to be a worldwide pandemic;
 - c. The Governor of the State of Indiana has declared a public health emergency;
 - d. The Federal Government, by and through the office of the President of the United States of America, has declared the COVID-19 pandemic a National Emergency;
 - e. All school districts in Scott County (Scott County School District 1 (Austin)) and Scott County School District 2 (Scottsburg / Scott County)) have suspended in-person learning and extra-curricular activities until at least April 6, 2020;
 - f. The Center for Disease Control (CDC) has advised that "social distancing" is an effective strategy for the prevention of the further spread of the virus. Further, that drastic steps are required to immediately halt the spread of the virus. On March 15, 2020, the CDC issued recommendations that any non-essential event involving more than 50 people should be canceled or rescheduled for EIGHT (8) WEEKS;
 - g. The usual dockets of the Scott Circuit and Superior Courts regularly call for attendance in excess of 50 persons;
 - h. In 2015, Scott County was the site of a well-documented and historic outbreak of an HIV epidemic;
 - i. According to the Indiana State Department of Health, Scott County, Indiana has the highest rate of HIV positive cases, per capita, in the state;
 - j. At any time, the Scott County jail detains 20 or more HIV positive individuals. This represents more than 10% of the jail population;
 - k. The Scott County Health Department reports that the HIV positive population in Scott County is at high risk of infection, adverse health outcomes, and fatality due to the compromised immune systems of those infected;

- l. Further, the Scott County Health Department reports that due to the high concentration of HIV positive individuals in the Scott County Jail being kept in close quarters, a COVID-19 outbreak involving the jail would be catastrophic and would strain not only the jail operations but the available medical and hospital facilities of the county;
 - m. Assembling a jury for any civil or criminal jury trial would require a gathering of more than 50 persons, and would involve the appearance of many people at high risk, including the elderly, the ill, and those with compromised immune systems;
 - n. The Scott Circuit and Superior Courts have appointed presiding Judge Jason M. Mount as the presiding Judge for this emergency.
2. NOW THEREFORE, the judges of the Circuit and Superior Courts of Scott County, Indiana request that the Supreme Court declare that an emergency exists in Scott County under the Authority of Ind. Admin R. 17 and to make appropriate emergency orders for Scott County directing and allowing the courts and clerk of Scott County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency.
3. The proposed Emergency Plan is as follows:
- a. The tolling, effective as soon as order may issue and through May 8, 2020, of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, and mental health matters, all judgments, support, and other orders; and in all other civil and criminal matters before the courts of Scott County. Further, no interest shall be due or charged during this tolled period;
 - b. Effective as soon as order may issue and through May 8, 2020, authorization for the courts of Scott County, in their discretion, to continue all hearings they deem non-essential;
 - c. Effective as soon as order may issue, at the court's discretion, authorize in criminal cases to:
 - i. Hold pre-trial conferences by counsel only;
 - ii. Allow pre-trial conferences to be held between the Prosecutor and Defense counsel directly, which may be held electronically or by teleconference, and report to the court in writing on or before the date the conference is scheduled the result of the conference and the parties' intent with any pending trial date;
 - iii. Have defendants appear via video conference from jail for any hearings, except contested sentencing hearings and jury trials;
 - iv. Continue trials for non-incarcerated individuals; and
 - v. Continue all jury trials until no later than May 25, 2020 to allow adequate notification of the jury pool;
 - vi. Suspend the requirements under I.C. 35-33-7-1(2)(b) and (c) that initial hearing for persons who have made bail be held within twenty (20) calendar days or ten (10) calendar days as the case may be;
 - d. Effective as soon as order may issue and through May 8, 2020, at the court's discretion, authorize in civil cases to:
 - i. Continue all jury trials until no later than May 25, 2020 to allow adequate notification of the jury pool;

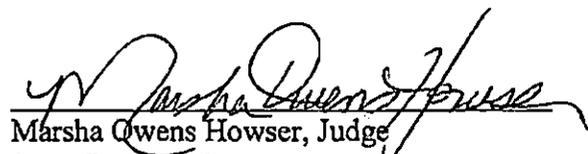
- ii. Continue all bench trials;
- iii. Continue all non-essential matters;
- iv. Use teleconference or video conference to:
 - 1. Conduct hearings that involve agreed issues
 - 2. Allow parties to appear remotely, unless a litigant's due process rights would be violated, and
 - 3. Allow attorneys to appear remotely for all civil status conferences, pretrial conferences, by filing a "Notice of Remote Appearance" at least 24 hours prior to the scheduled hearing;
- v. Allow attorney-only conference whenever possible without the requirement of a motion;
- vi. Suspend issuing civil body attachments and Title IV-D attachments;
- e. Effective as soon as order may issue and through May 8, 2020, at the court's discretion, authorize the court in JD, JC, and JT matters to hear only detention hearings and other hearings it deems essential and/or of an emergency nature;
- f. Effective as soon as order may issue and through May 8, 2020, at the court's discretion, authorize the court in Protective Order cases to hear only Domestic Violence related cases and other hearings it deems essential and/or of an emergency nature;
- g. Effective as soon as order may issue and through May 8, 2020, authorize the courts of Scott County, in their discretion and subject to applicable Constitutional limitations, to limit spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing;
- h. Effective as soon as order may issue and through May 8, 2020, authorize the courts of Scott County to consider (A) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; or (b) exposure of such individuals to anyone who has or may have COVID-19 to constitute "good cause" to either appear remotely or continue a court setting, to the extent possible without violating statutory or Constitutional rights;

NOW THEREFORE, the judges of Scott County request that the Supreme Court declare that an emergency exists in Scott County under the authority of Ind. Admin. R.17, and to make appropriate emergency orders for Scott County directing and allowing the courts and clerk of Scott County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency.

RESPECTFULLY SUBMITTED THIS 16TH DAY OF MARCH, 2020.



Jason M. Mount, Judge
Scott Circuit Court



Marsha Owens Howser, Judge
Scott Superior Court