

20S-CB-157

IN THE MIAMI CIRCUIT AND SUPERIOR COURTS
PERU, INDIANA

STATE OF INDIANA)
) SS:
COUNTY OF MIAMI)

CAUSE NO. 52C01-2003-CB- 228

IN THE MATTER OF THE PETITION)
OF THE CIRCUIT AND SUPERIOR)
COURTS OF MIAMI COUNTY, INDIANA,)
FOR EMERGENCY RELIEF UNDER)
INDIANA ADMINISTRATIVE RULE 17)

PETITION FOR RELIEF UNDER INDIANA ADMINISTRATIVE RULE 17

Come now the Judges of the Circuit and Superior Courts of Miami County, Indiana, and petition the Indiana Supreme Court for relief under Indiana Administrative Rule 17. In support of this Petition, the undersigned judicial officers are providing the following information and requests to the Indiana Supreme Court:

1. On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of coronavirus disease 2019 (COVID-19) to be a “public health emergency of international concern.”
2. On March 6, 2020, Governor Eric Holcomb signed Executive Order 20-02, declaring an emergency related to COVID-19.
3. On March 11, 2020, the World Health Organization announced that COVID-19 is a pandemic.
4. On March 12, 2020, Governor Holcomb announced that non-essential gatherings were to be limited to no more than 250 people and that school corporations would be given a 20-day waiver of the required 180 instructional days for use as needed for the remainder of the 2019-2020 academic year.
5. On March 13, 2020, President Donald Trump declared a National Emergency as a result of the COVID-19 outbreak.
6. On March 16, 2020, Governor Holcomb called for the institution of a variety of additional restrictions as a result of the significant threat posed to the public by COVID-19, including, *inter alia*, the closure of bars, nightclubs, and restaurants to in-person patrons through the end of March 2020. Governor Holcomb also recommended that there be no in-person events consisting of more than 50 people.

7. On March 16, 2020, the White House called for Americans to avoid gathering in groups of more than 10 people and asked for them to stay away from bars and restaurants.

8. The Centers for Disease Control and Prevention (CDC) are recommending “social distancing” to limit the spread of COVID-19.

9. The operations of the Circuit and Superior Courts of Miami County often lead to hundreds of individuals entering the Miami County Courthouse and Courthouse Annex on a given day.

10. The Courts have received numerous inquiries about the health and safety of litigants, counsel, members of the public, and the staff of court offices and other offices that are affiliated with the Courts.

11. The mitigation of the spread of COVID-19 is of the utmost importance for the protection of the citizens of Miami County.

12. On March 16, 2020, two of the undersigned judicial officers (Judges Timothy P. Spahr and Daniel C. Banina) conferred with the Miami County Board of Commissioners, representatives of the Miami County Health Department, the Miami County Clerk, a representative of the Miami County Council, the Miami County Sheriff, the Miami County Auditor, the Director of Miami County Emergency Management, the Chief Probation Officer of the Miami County Probation Department, the Director of the Miami County Community Corrections Program, the Assistant Director of the Miami County CASA Program, staff members of the Miami Circuit and Superior Courts, representatives of the Miami County Prosecutor’s Office and of the Miami County Public Defender Office, and other representatives of the Miami County Bar with respect to the COVID-19 situation and the threats posed by it.

13. After the close of business on March 16, 2020, the Miami County Auditor, acting on behalf of the Miami County Board of Commissioners, issued an email to all Miami County employees, notifying them that, effective March 17, 2020, and continuing for two weeks “or until further notice” the Miami County Courthouse and Courthouse Annex will be closed to the general public all day on Monday and Friday of each week and will be open solely for court business on Tuesday, Wednesday, and Thursday of each week. The Commissioners also instituted screening protocols to be applied to people entering the Miami County Courthouse. So far, County employees are to continue working, albeit behind closed doors, with the exception of court employees, who will have to have a certain degree of in-person contact with members of the public who appear for court hearings and trials.

14. The Miami Circuit and Superior Courts have appointed Timothy P. Spahr, Judge of the Miami Circuit Court, to serve as the Presiding Judge with respect to this emergency.

15. The undersigned judicial officers request that the Indiana Supreme Court declare that an emergency exists in Miami County pursuant to Indiana Administrative Rule 17 and make appropriate emergency orders for Miami County, directing and allowing the Courts and Clerk of

Miami County to alter, modify, and suspend necessary procedures as provided for in the emergency plan set forth in Paragraph 16, below, in order to appropriately address this emergency.

16. The Miami Circuit and Superior Courts' Emergency Plan, which shall take place upon approval of the Indiana Supreme Court and shall run through April 30, 2020 (unless otherwise noted below) is as follows:

- a. There shall be a tolling, beginning on March 17, 2020, and continuing through April 30, 2020, of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters; all judgments, support, and other orders; and in all other civil and criminal matters before the Circuit and Superior Courts of Miami County.
- b. Criminal and civil jury trials shall be rescheduled to take place after April 30, 2020 (subject in criminal cases to the Constitutional right to speedy trial and the Constitutional protection against double jeopardy).
- c. All non-essential hearings (excluding emergency matters, domestic violence hearings, and evidentiary hearings in criminal cases) shall be continued to take place on a date after April 30, 2020.
- d. The Courts shall permit the use of telephone and/or videoconferencing in lieu of in-person appearances to the greatest extent possible, unless a litigant's due process rights would be violated.
- e. The Judges of the Miami Circuit and Superior Courts have long had a policy permitting them to exercise general jurisdiction over any and all cases in each other's courts. That policy hereby is reaffirmed and shall continue during the period of this emergency.
- f. To the extent that it is reasonable, Orders to Show Cause shall be issued in civil cases in lieu of body attachments.
- g. The Courts shall consider: (i) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; (ii) exposure of such individuals to anyone who has or may have COVID-19; or (iii) status of such individuals in a high-risk category; to constitute "good cause" to either appear remotely or for the continuance of a hearing or trial setting, to the extent possible without violating statutory or constitutional rights.
- h. Any attorney wishing to appear remotely (e.g., via telephone or videoconferencing) for any status conference or non-evidentiary hearing may do so without further leave of Court upon notifying the Court of his or her desire to appear remotely in that fashion.

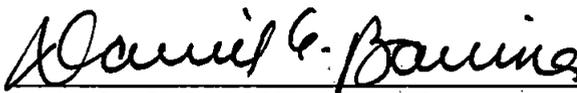
- i. Any individual who has a hearing or trial and who is ill or caring for someone who is ill or who is in a high-risk category may contact the Miami County Clerk and/or the Courts via telephone to request a continuance or the opportunity to participate via telephone.
- j. The Miami County Clerk shall make drop boxes available for use by the public for the submission of conventionally filed documents and shall ensure that those filings, all e-filings, and all Orders of the Court continue to be processed and distributed in a consistent, timely fashion.
- k. Signage shall be posted at the entrance to the Miami County Courthouse advising individuals not to enter the Courthouse if they have:
 - i. Visited China, Iran, South Korea, any European countries, or any other high-risk country identified by the CDC in the previous 14 days;
 - ii. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
 - iii. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
 - iv. Been asked to self-quarantine by any doctor, hospital, or health agency;
 - v. Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or
 - vi. A fever, cough, or shortness of breath.
- l. Court security officers are directed to deny entrance to individuals who fall within any of the categories described in subparagraph (k), above.
- m. Additionally, litigants will be requested to attend Court, when possible, only with their attorney and any witnesses whom they need to call during their hearing or trial.
- n. Members of the media shall be permitted access to any court proceedings to which they would normally be permitted access.
- o. Those who are attending court hearings and trials will be encouraged to exercise “social distancing” both outside and inside the Courtroom.
- p. To the extent that adequate sanitation materials (such as hand sanitizer and bleach wipes) are available, they shall be made available in each courtroom.

- q. To the greatest extent possible, certified mail service will be employed instead of sheriff service.

WHEREFORE, the undersigned judicial officers have hereunto set their hands this 17th day of March, 2020, and pray that the Indiana Supreme Court will grant the relief requested hereinabove.


TIMOTHY P. SPAHR, JUDGE
MIAMI CIRCUIT COURT


J. DAVID GRUND, JUDGE
MIAMI SUPERIOR COURT I


DANIEL C. BANINA, JUDGE
MIAMI SUPERIOR COURT II