

IN THE INDIANA SUPREME COURT

IN THE MATTER OF THE PETITION
OF THE KOSCIUSKO COUNTY COURTS
FOR ADMINISTRATIVE RULE 17
EMERGENCY RELIEF

CASE NO.: 20S-CB-188

EMERGENCY PETITION FOR ADMINISTRATIVE ORDERS

Come now the Courts of Kosciusko County (Kosciusko Circuit Court, Kosciusko Superior Court No. 1, Kosciusko Superior Court No. 2, Kosciusko Superior Court No. 3, and Kosciusko Superior Court No. 4, hereinafter courts) and petition the Supreme Court for relief under Ind. Administrative Rule 17. In support of this petition, the courts inform the Supreme Court as follows:

The courts have convened in banc and have determined:

- A) That the World Health Organization has determined the outbreak of COVID-19 is a worldwide pandemic, and that it is spreading across the state, nation, and world.
- B) That on March 13, 2020, President Trump declared a National Emergency as a result of the COVID-19 outbreak.
- C) That States of Emergency have been declared in at least 20 states, including the State of Indiana, and COVID-19 cases have been reported in all 50 states.
- D) That on March 6, 2020, Governor Holcomb signed an executive order declaring an emergency related to COVID-19.
- E) That the Center for Disease Control (CDC) has determined that "social distancing" among other preventative measures is necessary for the prevention of further spreading the COVID-19 virus.
- F) That as of March 15, 2020, the CDC recommends the cancellation of in-person gatherings of 50 people or more for the next 8 weeks.
- G) That the CDC has further determined that drastic steps are immediately required to halt the spread of the virus and to protect public health care systems from being inundated.
- H) That in the State of Indiana, the two largest public universities, Indiana University and Purdue University, are utilizing social distancing by cancelling all in person classes for the remainder of the 2019-20 school year.
- I) That all classes in the Warsaw and Wawasee Community Schools and Tippecanoe Valley School System have closed from March 16, 2020, until April 10, 2020. In addition, Grace College, located in Winona Lake, Indiana, which is adjacent to Warsaw, Indiana, has suspended all in-person classes until April 13, 2020.
- J) That the most recent information available identifies those over the age of 60 as the population most susceptible to serious complications from the COVID-19 virus.

- K) That while there have been no reported cases in Kosciusko County at this time, the entire population of Kosciusko County is susceptible to the virus. That based upon the most recent information available there is currently no vaccine available for the COVID-19 virus.
- L) That the courts find that on any given day several hundred people enter into, and congregate in, the Kosciusko Justice Building, including those people that appear for hearings and/or jury trials in the Circuit Court or Superior Courts, those that appear for Probation and Community Corrections, those that appear in person in the Clerk's Office, and those that appear in person at the Prosecutor's Office.
- M) That the courts find that allowing large volumes of people to appear at the Kosciusko Justice Building represents a failure to halt the spread of COVID-19 and is a serious health threat to the citizens of Kosciusko County.
- N) That in addition, the ordering of individuals to convene in a group setting at this time, given the WHO, CDC and Federal government recommendations would create an unnecessarily stressful situation for summoned jurors. Jurors should not have to weigh compliance with a juror summons against possible contraction of COVID-19.
- O) That the courts find that ordering a susceptible population to appear for jury service in this pandemic climate represents a failure of the judiciary to halt the spread of COVID-19 and is a serious health threat to the citizens of Kosciusko County.
- P) That due to a shortage of cleaning and sanitation products in all of the local stores, the courts find that Kosciusko County does not possess adequate hygiene stations or sanitation supplies to keep up with the continuous cleaning that would be required should large groups of people continue to appear in the immediate future.
- Q) That the courts have conferred with several justice stakeholders including the Prosecutor's Office, Kosciusko County Court Services (Probation), the Sheriff of Kosciusko County, the Clerk of Kosciusko County, and the Kosciusko County Administrator regarding the situation and received their input on the proposed plan.
- R) That the protection of Kosciusko County employees and the public is priority.
- S) That the courts have appointed Judge Michael W. Reed as the presiding Judge for this emergency.
- T) That the judges of the courts request that the Supreme Court declare that an emergency exists in Kosciusko County under the authority of Ind. Admin Rule 17, and to make appropriate emergency orders for Kosciusko County directing and allowing the courts and clerk of Kosciusko County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted below.
- U) That the court's Emergency Plan which would take place upon approval of the Supreme Court and run through May 4, 2020 (unless otherwise noted below), is as follows:
 - 1) Posting signage at all public entry points to judicial facilities advising individuals not to enter the building if they have:
 - a. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC in the previous 14 days;
 - b. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;

- c. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
- d. Been asked to self-quarantine by any doctor, hospital, or health agency;
- e. Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or
- f. A fever, cough or shortness of breath;

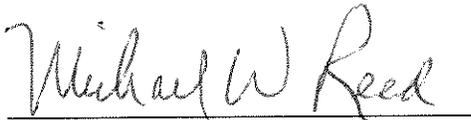
And directing bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols.

- 2) Being cognizant of the transparency of the courts and the Judicial System, the courts may take steps to limit spectators in the courtroom to provide adequate social distancing, if necessary, for the safety of County employees and the public in general, taking into consideration the constitutional rights of all parties. This shall not include the Parties, their attorneys, or witnesses.
- 3) The immediate continuance of all jury trials, civil and criminal, including those requests for a "fast and speedy" trial until May 4, 2020, to eliminate the gathering of large groups of people to try to limit the spread of the COVID-19 virus.
- 4) The courts will limit all civil proceedings to those that are necessary, emergencies or "urgent" in nature. That the courts will use their discretion to determine which cases are necessary, emergencies or "urgent" in nature. That, at a minimum, those necessary, emergency and/or urgent cases shall include protective orders, emergency CHINS proceedings, JD and JC detention hearings, and emergency custody and visitation motions.
- 5) The courts may limit all criminal proceedings except emergency motions and petitions, bond hearings, initial hearings, emergency hearings, change of plea hearings, sentencing hearings, and any other criminal proceeding deemed necessary or urgent by the courts.
- 6) The courts respectfully request that the Supreme Court authorize the tolling of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, omnibus deadlines, public health, and mental health matters; all judgements, support and other orders; and in all other criminal and civil matters before the courts of Kosciusko County between March 18, 2020, through May 4, 2020.
- 7) Effective from the date of this order through May 4, 2020, any attorney who desires to appear remotely for any status conference or non-evidentiary hearing may do so upon proper advance notification to the court. That no formal motion shall be required, and a notice of remote appearance shall suffice.
- 8) Remote appearances may be coordinated through the staff of either the Kosciusko Circuit or Kosciusko Superior Courts.
- 9) With respect to evidentiary hearings and trials, the courts now hereby find that (i) the existence of flu or "flu-like" symptoms in any party to the case, including witnesses expected to testify; or (ii) exposure of such individuals to anyone who has or may have COVID-19, may be considered good cause for any motion to appear remotely or continue a court setting. To the extent possible, and without violating statutory or constitutional rights, the courts will accommodate those requests/motions.

- 10) Allowing individuals with legitimate court business to stay home and request a continuance by phone to the county Clerk if they are ill, caring for someone who is ill, or in a high-risk category.
- 11) Providing sanitation materials, to the extent available to the courts (such as hand sanitizer or bleach wipes) at all courtroom entrances and counsel tables.
- 12) Given the fluid nature of this pandemic, the terms of this order may be modified or extended as approved by the Courts and the Indiana Supreme Court.

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

DONE at Warsaw, Indiana, this 18th day of March, 2020.



Michael W. Reed, Judge
Kosciusko Circuit Court



David C. Cates, Judge
Kosciusko Superior Court No. 1



Torrey J. Bauer, Judge
Kosciusko Superior Court No. 2



Joe V. Sutton, Judge
Kosciusko Superior Court No. 3



Christopher D. Kehler, Judge
Kosciusko Superior Court No. 4