

20S-CB-215

IN RE THE PETITION FOR
EMERGENCY RELIEF PURSUANT TO AR 17
BY THE BENTON CIRCUIT COURT

FILED**MAR 20 2020**

Nathaniel J. Kidd
Clerk Benton Circuit Court

JOINT PETITION FOR RELIEF PURSUANT
INDIANA ADMINISTRATIVE RULE 17

Come now the Benton Circuit Court, petitioning the Supreme Court for relief under Indiana Administrative Rule 17. In support of this Petition, the Courts inform the Supreme Court as follows:

1. The Benton Circuit Court has determined or been properly informed that:
 - a. That the Secretary of the Department of Health and Human Services as declared a national public health emergency:
 - b. That the Governor of the State of Indiana has declared an emergency due to COVID-19.
 - c. The Governor has approved a twenty (20) day waiver for Indiana Schools in an effort to prevent the transmission of COVID-19.
 - d. The Governor has banned large in-person events, restricted bars and restaurants to take-out and delivery service only until the end of March as numerous other contiguous states have imposed similar bans.
 - e. That the World Health Organization has declared COVID-19 a pandemic.
 - f. That the County Health Departments have advised that limiting unnecessary social contact will assist in preventing the transmission of COVID-19.
 - g. That the County Commissioners have implemented or are reviewing the appropriate steps to limit public access to each County Courthouse to prevent the transmission of COVID-19.
 - h. Because of the limited judicial resources in the respective counties represented by the Courts filing herein, it is critical that precautions be taken so that essential operations can continue without interruption.

The Judge of the Benton Circuit Court requests that the Supreme Court declare that an emergency exists in Benton County, under the authority of Ind. Admin. R. 17, and to make appropriate emergency orders for Benton County, directing and allowing the court and clerk to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency.

EMERGENCY PLAN

The Court submits the following as the Emergency Plan of Benton County and requests authorization to utilize any combination of these measures as the Courts deem appropriate:

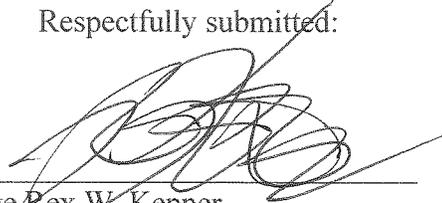
1. Tolling for a limited time all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters; all judgments, support, and other orders; and in all other civil and criminal matters before the Courts.
2. Suspending and/or rescheduling criminal and civil jury trials for a limited time (subject in criminal cases to the Constitutional right to speedy trial and Constitutional protection against double jeopardy).
3. Suspending new juror orientations, extending existing jury panels, and/or postponing jury service to a later date for jurors who are ill, caring for someone who is ill, or in a high-risk category.
4. Continuing and/or rescheduling non-essential hearings (excluding emergency matters, domestic violence hearings, and evidentiary hearings in criminal cases).
5. Using telephonic or video technology in lieu of in-person appearances, unless a litigant's due process rights would be violated.
6. In the event a presiding judge herein is unable to serve due to COVID-19 related health issues, including quarantine or mandatory self-isolation and in the event there is no senior judge available to serve, the Petitioner requests the following: the authority to allow the presiding judges in any Indiana County to exercise temporary special judge authority without the necessity of formal appointment by the presiding judge in each case. Specifically, this petition requests the authority pursuant to AR 17 to allow any Indiana Judge in active and good standing to exercise general jurisdiction over cases in the Benton Circuit Court, in the event the presiding judge has a COVID-19 related emergency. This is particularly important given that Benton County only has one court and it is anticipated that there may not be senior judges available as in normal situations.
7. Further, in the event that no other Judge or Senior Judge is available upon attempted inquiry by one or both court reporters of the Benton Circuit Court, that one of the two immediate Court staff (court reporters) of the Benton Circuit Court be permitted, in Judge Kepner's absence or unavailability, to prepare an Order and stamp the same with the regular Judges signature, appointing an attorney as Judge Pro Tem, that being an attorney in good standing that practices in Benton County and/or any county that is adjacent to and touches the borders of Benton County for the limited purpose of one or more emergency hearings, when an emergency arises and an Order or hearing is reasonably required within 72 hours. That if

Judge Kepner is unavailable the Court staff would then seek immediate and prompt directives from the Indiana Supreme Court on how to proceed thereafter.

8. Issuing summonses in lieu of bench warrants or notices of failure to appear.
9. Considering (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; (b) exposure of such individuals to anyone who has or may have COVID-19; or (c) status of such individuals in a high-risk category; to constitute “good cause” to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.
10. Allowing any attorney wishing to appear remotely (e.g., through teleconference systems, etc.) for any status conference or non-evidentiary hearing without further leave of court upon filing a “Notice of Remote Appearance” in the court in which the matter will be heard.
11. Subject to applicable Constitutional limitations, limiting spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing.
12. For trial court clerks, making drop boxes available, for conventionally filed documents.
13. 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.
14. 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.
 - g. Conduct via video all mental health, juvenile, CHINS and termination hearings where the parent is incarcerated.

The petitioning Courts propose this plan remain in effect until May 30, 2020 or as may be extended from time to time, upon Motion of the petitioning Courts or extension by the Indiana Supreme Court without the necessity of a follow up Motion from the Benton Circuit Court.

Respectfully submitted:



Judge Rex W. Kepner
Benton Circuit Court

3-26-2020