

Supreme Court of Florida

No. AOSC20-17

IN RE: COVID-19 EMERGENCY MEASURES
IN THE FLORIDA STATE COURTS

ADMINISTRATIVE ORDER

The Coronavirus Disease 2019 (COVID-19) pandemic continues to have a massive effect upon the operations of the State Courts System and the lives of all Floridians. The Florida state courts have taken measures to mitigate not only the effects of this public health emergency upon the judicial branch and its participants, but also the spread of the novel Coronavirus. Many court proceedings have been delayed and substantial efforts are being made to enable judges and court personnel to conduct court business remotely or on alternate work schedules. Judges who can conduct court business from a remote location are strongly encouraged to do so. Moreover, all judges and court personnel are strongly encouraged to employ similar comprehensive social distancing practices outside of the workplace in order to slow the spread of this dangerous disease.

Pursuant to the administrative authority conferred upon me by article V, section 2(b) of the Florida Constitution and Florida Rules of Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v), this order is issued to

combine and extend the temporary measures implemented in three previous administrative orders.¹ This order is also issued to implement additional temporary measures essential to the administration of justice in Florida during the COVID-19 pandemic. Nothing in this order (or the three previously referenced administrative orders) is intended to limit a chief judge's authority to conduct court business or approve additional court proceedings or events that are required in the interest of justice so long as risks to the health of the individuals involved and the public health are minimized.

JURY PROCEEDINGS AND JURY TRIALS

Administrative Order No. AOSC20-13 temporarily suspended grand jury proceedings, jury selection proceedings, and criminal and civil jury trials.

It is hereby ordered that all grand jury proceedings, jury selection proceedings, and criminal and civil jury trials are further suspended through Friday, April 17, 2020, or as provided by subsequent order. However, a proceeding that has been commenced may proceed to completion if the presiding judge, with approval of the chief judge, determines that completion of the

1. *In re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020); *In re: COVID-19 Essential and Critical Trial Court Proceedings*, Fla. Admin. Order No. AOSC20-15 (March 17, 2020); and *In re: COVID-19 Emergency Procedures for the Administering of Oaths via Remote Audio-Video Communication Equipment*, Fla. Admin. Order No. AOSC20-16 (March 18, 2020), which are appended hereto for ease of reference.

proceeding without delay is required by the interests of justice. In addition, the requirements of the double jeopardy clause must be considered in criminal proceedings.

SPEEDY TRIAL PROCEDURE AND
TIME PERIODS PURSUANT TO RULES 3.133(b) AND 3.134

Administrative Order No. AOSC20-13 also temporarily suspended the speedy trial procedure in the manner described in *Sullivan v. State*, 913 So. 2d 762 (Fla. 5th DCA 2005), and *State v. Hernandez*, 617 So. 2d 1103 (Fla. 3rd DCA 1993).

It is hereby ordered that all time periods involving the speedy trial procedure, in criminal and juvenile court proceedings, are further suspended through the close of business on Monday, April 20, 2020, or as provided by subsequent order. The suspension of time limits under the speedy trial procedure restores additional days equal to the number stated in Administrative Order No. AOSC20-13 and this order.

With regard to persons arrested for first degree murder, it is hereby ordered that all time periods pursuant to Florida Rules of Criminal Procedure 3.133(b) and 3.134 are suspended from the close of business on Friday, March 13, 2020, through the close of business on Friday, April 17, 2020, or as provided by subsequent order. The suspension of the time limits of Florida Rules of Criminal Procedure

3.133(b) and 3.134 restores additional days equal to the number stated in this order.

ESSENTIAL AND CRITICAL TRIAL COURT PROCEEDINGS

Administrative Order No. 20-15 required each circuit and county court to fulfill its responsibility to conduct essential proceedings and proceedings critical to the state of emergency or the public health emergency and directed the chief judge of each circuit court to cancel or postpone court proceedings other than essential and critical proceedings unless the chief judge determines that other proceedings and events can be effectively conducted remotely without the necessity of in-person court appearances.

It is hereby ordered that the provisions in Administrative Order No. AOSC20-15 shall remain in place through the close of business on Friday, April 17, 2020, or as provided by subsequent order.

It is further hereby recognized that certain essential or critical trial court proceedings in some jurisdictions may in extraordinary, limited circumstances be unavoidably delayed due to the exigencies of the ongoing emergency. When this occurs, chief judges are required to take all steps possible to minimize the delay.

ADMINISTRATION OF CASES IN WHICH
DEFENDANT IS ARRESTED ON WARRANT OR CAPIAS
FROM ANOTHER FLORIDA JURISDICTION

To mitigate the health risks associated with the incarceration and transportation of defendants during the pandemic, when a defendant is arrested on a warrant or capias from another Florida jurisdiction, chief judges of the circuit courts are hereby encouraged to facilitate communication between the circuit or county where the case originated (“home court”) and the circuit or county where the defendant is incarcerated (“holding court”), for the handling of matters on a temporary basis, as follows:

a. Pretrial Release and First Appearance Hearings

Chief judges are authorized to direct judges conducting pretrial release and first appearance hearings to address detention and monetary bond or other conditions of pretrial release in the county of arrest, regardless of whether the case is transferred, rather than requiring transport of the defendant to the county where any warrant or capias originated.

For capiases and violation of probation warrants, before setting monetary bond or other conditions of pretrial release, the first appearance judge must obtain relevant information from the issuing judge, and from the state attorney’s office(s) if necessary, in order to make a proper decision regarding monetary bond or other conditions of pretrial release.

Action taken by the holding court at first appearance and any pretrial release hearing should be promptly reported to the home court and reflected in the record of the case.

Any provision of Florida Rule of Criminal Procedure 3.131 inconsistent with these measures is hereby suspended.

b. Pleas

Judges are further encouraged to coordinate with prosecutors, attorneys, defendants, and victims in order to utilize § 910.035, Florida Statutes, which allows for pleas of guilty or nolo contendere for persons arrested in counties outside of the county of prosecution, upon the consent of the defendant and the state attorney in the county where the crime was committed.

c. Rights of Parties

In cases that are not handled by a plea or pretrial release such that the defendant will continue to be detained in the jurisdiction of the holding court for an indefinite period of time, chief judges are directed to ensure that the due process rights of the defendant are protected by facilitating the temporary transfer of the case to the holding court, if necessary; by having a judge from the holding court designated by the Chief Justice, or designated by the chief judge if the home and holding court are within the same circuit,

as a judge of the home court to handle emergency or other necessary matters in the case; or by other appropriate means.

The constitutional rights of victims must also be considered in all cases by the presiding judge.

These modified court procedures shall remain in place through the close of business on Friday, April 17, 2020, or as provided by subsequent order.

INCOMPETENCE TO PROCEED

Where exigencies make it impossible to meet the 20-day time period in Florida Rule of Criminal Procedure 3.210(b), chief judges of the circuit courts are hereby authorized to direct judges to hold competency hearings as soon as practicable after the date of filing a motion to determine competency. Chief judges are also authorized to allow experts and attorneys to conduct and attend competency evaluations by remote means, if practicable.

These modified court procedures shall remain in place through the close of business on Friday, April 17, 2020, or as provided by subsequent order.

WRITS OF POSSESSION

Given the exigencies of the public health emergency, the requirement in Florida Rule of Civil Procedure 1.580(a) for the clerk to issue a writ of possession “forthwith” shall be suspended through the close of business on Friday, April 17, 2020, or as provided by subsequent order.

FAMILY LAW FORMS

Except as indicated below, the requirement that Florida Family Law Forms be notarized or signed in the presence of a deputy clerk is hereby suspended through the close of business on Friday, April 17, 2020, or as provided by subsequent order, if the filer includes the following statement before the filer's signature:

Under penalties of perjury, I declare that I have read this document and the facts stated in it are true.

This exception does not apply to Florida Family Law Forms 12.902(f)(1), Marital Settlement Agreement for Dissolution of Marriage with Dependent or Minor Child(ren), 12.902(f)(2), Marital Settlement Agreement for Dissolution of Marriage with Property but No Dependent or Minor Child(ren), 12.902(f)(3), Marital Settlement Agreement for Simplified Dissolution of Marriage, and any other family law form that transfers the ownership of property, which must continue to be notarized or signed in the presence of a deputy clerk prior to filing.

ADMINISTERING OF OATHS VIA REMOTE AUDIO-VIDEO COMMUNICATION EQUIPMENT

Administrative Order No. AOSC20-16 suspended any actual or implied requirement that notaries, and other persons qualified to administer an oath in the State of Florida, must be in the presence of witnesses for purposes of administering an oath for depositions and other legal testimony, so long as the notary or other

qualified person can both see and hear the witness via audio-video communications equipment for purposes of readily identifying the witnesses.

It is hereby ordered that the provisions in Administrative Order No. AOSC20-16 shall remain in place through the close of business on Friday, April 17, 2020, or as provided by subsequent order.

OTHER PROCEDURAL REQUIREMENTS AND LIMITATIONS

It is further ordered that all other provisions in Administrative Orders No. AOSC20-13, No. AOSC20-15, and AOSC20-16 that temporarily suspended procedural requirements and limitations that could hinder efforts to mitigate the effects of COVID-19 on the courts, court participants, and all the people of Florida shall remain in place through the close of business on Friday, April 17, 2020, or as provided by subsequent order.

MAINTAINING WORKFLOW AS FEASIBLE

To maintain judicial workflow to the maximum extent feasible, chief judges are directed to take all possible steps to facilitate conducting proceedings with the use of technology.

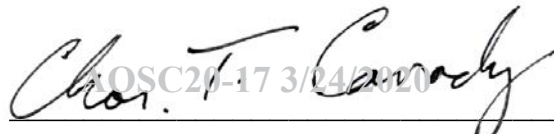
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These emergency measures are necessary to ensure public health and safety during this unprecedented pandemic; however, the constitutional right of access to the courts by the public must be considered by the presiding judge in all cases.

Additional orders extending or modifying these measures will be issued as warranted by changing circumstances during the public health emergency.

The provisions of this order regarding time periods pursuant to Florida Rules of Criminal Procedure 3.133(b) and 3.134 are effective beginning on March 13, 2020, *nunc pro tunc*. All other provisions of this order are effective upon either the date established in the original orders (see footnote 1) or the date this order is signed.

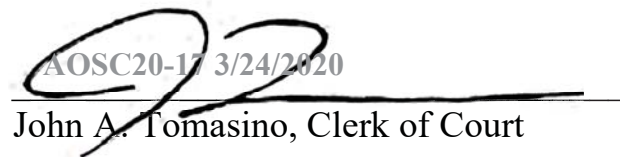
DONE AND ORDERED at Tallahassee, Florida, on March 24, 2020.



Chief Justice Charles T. Canady

AOSC20-17 3/24/2020

ATTEST:



John A. Tomasino, Clerk of Court

AOSC20-17 3/24/2020

