

**IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY
COMMONWEALTH OF PENNSYLVANIA
CRIMINAL DIVISION - LAW**

**IN RE: ADMINISTRATIVE ORDER 2021-8
Pa.R.J.A. 1952 – JUDICIAL EMERGENCY**

No.: C-48-AD-78-2021

2021 MAY 18 A 10:23
CLERK OF COURT
CRIMINAL DIVISION
NORTHAMPTON COUNTY, PA

FILED

ADMINISTRATIVE ORDER

AND NOW, this 18th day of May, 2021, pursuant to (1) the Pennsylvania Supreme Court's Order dated May 27, 2020 authorizing the President Judge of a Judicial District to declare a judicial emergency; (2) this Court's Declaration of a judicial emergency in the Third Judicial District from July 1, 2021 through December 31, 2021; and (3) Pennsylvania Rule of Judicial Administration 1952, in order to balance the public's compelling interest in securing access to judicial services and the mandate of Pennsylvania Rule of Judicial Administration 1952(B)(2) to "take necessary action to provide for the . . . safety of court personnel, court users and the public . . . ," it is hereby **ORDERED** as follows:

I. Pennsylvania Rule of Criminal Procedure 600

Pennsylvania Rule of Criminal Procedure 600(c) is suspended from July 1, 2021 through September 30, 2021, and the period from July 1, 2021 through September 30, 2021 shall be excluded from the time calculation

under Rule 600(c). All criminal cases which are continued because of the judicial emergency shall be considered to be continued by the Court. Therefore, any continuance due to the judicial emergency shall constitute excludable time for purposes of the application of Rule of Criminal Procedure 600. See Pa.R.Crim.P. 600(C)(1) ("[P]eriods of delay at any stage of the proceedings caused by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation."); Pa.R.Crim.P. 600 cmt. ("Delay in the time for trial that is attributable to the judiciary may be excluded from the computation of time."); *Commonwealth v. Mills*, 162 A.2d 323, 325 (Pa. 2017) (dictum) ("[W]here a trial-ready prosecutor must wait several months due to a court calendar, the time should be treated as 'delay' for which the Commonwealth is not accountable."); *Commonwealth v. Bradford*, 46 A.3d 693, 705 (Pa. 2012) (finding that the Commonwealth did not violate Rule 600 where the delay was caused by the Magisterial District Judge's failure to forward the file to the Court of Common Pleas as required by Pa.R.Crim.P. 547(B), resulting in the Court's failure to generate a docket number and, in turn, failure to trigger the District Attorney's internal tracking system; "[T]he Commonwealth exercised due diligence and the delay resulted from judicial delay beyond the Commonwealth's control.").

II. Audio-visual communication

1. With the exception of criminal and civil jury trials, once a case is assigned to a Judge of the Court of Common Pleas for disposition, the assigned judge may conduct the trial, hearing or conference **either** in-person or via two-way simultaneous audio-visual communication by using Polycom video conferencing, or Skype for Business video conferencing, or Zoom. Jury trials may only be conducted in-person. Members of the press may view the proceedings by using the Polycom RealPresence app for Android or Apple devices, or by using Skype for Business video conferencing, or by using Zoom.
2. As set forth below in Section V(2), because of the importance of social distancing requirements, courtroom capacity and staggered seating limitations will be strictly enforced in each courtroom. In order to facilitate these courtroom capacity and staggered seating limitations, all Formal Arraignments, the Call of the Criminal list, Summary Appeals, and ARD Court shall be conducted via two-way simultaneous audio-visual communication with the presiding judge appearing in Courtroom 1 and the parties and attorneys staggered in all available courtrooms which shall be presided over by all available judges who have not been pre-assigned to another matter by an Order issued by the President Judge. All guilty pleas

assigned from these proceedings shall be conducted by the judge assigned to each courtroom. In the event the assigned judge decides to conduct the proceeding via two-way simultaneous audio-visual communication pursuant to Section II(1) above, the judge's staff shall be responsible for scheduling the proceeding by using Polycom, Skype for Business, or Zoom video conferencing.

3. Magisterial District Judges may conduct preliminary hearings of incarcerated defendants **either** in-person or via two-way simultaneous audio-visual communication with the Magisterial District Court by using Polycom video conferencing, or Skype for Business video conferencing, or Zoom. Members of the press may view the proceedings by using the Polycom RealPresence app for Android or Apple devices, or by using Skype for Business video conferencing, or by using Zoom.
4. Settlement masters, custody masters, divorce masters, and domestic relations conference officers may conduct conferences **either** in-person or by telephone, or via two-way simultaneous audio-visual communication by using Polycom video conferencing, Skype for Business video conferencing, or Zoom.
5. Hearings pursuant to the Mental Health Procedures Act, 50 P.S. § 7101, may be conducted **either** in-person or by telephone, or via two-way simultaneous audio-visual communication by using

Polycom video conferencing, or Skype for Business video conferencing, or Zoom.

III. Non-Jury trials

1. In lieu of a civil non-jury call on August 4, 2021, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by July 30, 2021, stating whether the matter is ready for trial and the approximate length of such trial.
If the required email is not received by July 30, 2021, the matter will be stricken from the trial list.
2. In lieu of a civil non-jury call on September 1, 2021, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by August 27, 2021, stating whether the matter is ready for trial and the approximate length of such trial.
If the required email is not received by August 27, 2021, the matter will be stricken from the trial list.
3. In lieu of a civil non-jury call on October 6, 2021, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by October 1, 2021, stating whether the matter is ready for trial and the approximate length of such trial.
If the required email is not received by October 1, 2021, the matter will be stricken from the trial list.

4. In lieu of a civil non-jury call on December 1, 2021, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by November 26, 2021, stating whether the matter is ready for trial and the approximate length of such trial. If the required email is not received by November 26, 2021, the matter will be stricken from the trial list.

IV. Miscellaneous Court

1. In lieu of a call of the list for miscellaneous hearings for July 14, 2021, July 21, 2021, July 28, 2021, August 4, 2021, August 18, 2021, August 25, 2021, September 1, 2021, September 15, 2021, September 22, 2021, September 29, 2021, October 6, 2021, October 20, 2021, October 27, 2021, November 3, 2021, November 10, 2021, November 17, 2021, November 24, 2021, December 1, 2021, December 15, 2021, and December 22, 2021, the President Judge will pre-assign the cases to judges. At the scheduled time of the hearing, attorneys and parties shall report directly to the assigned judge's courtroom or, if approved by the assigned judge, the attorneys and parties shall participate via two-way simultaneous audio-visual communication.

V. CDC Guidelines/Masks

1. Except as provided in Section V, paragraph 4 below, all court employees who are not fully vaccinated¹ against COVID-19 and are under the supervision and authority of the President Judge, and all individuals who are not fully vaccinated against COVID-19 who enter any courtroom or court facility under the supervision and authority of the President Judge, including all Magisterial District Courts, the Office of Court Administration, the Domestic Relations Building, the Juvenile Justice Center, and the offices of Adult Probation and Pretrial Services, shall wear a mask which covers the mouth and nose, irrespective of physical distance from other individuals.²
2. Because of the importance of social distancing requirements, irrespective of vaccination status, in all courtrooms, including all Magisterial District Courts, signs shall be posted at the entry of

¹ Pursuant to CDC guidance issued on May 13, 2021, an individual is fully vaccinated two weeks after the individual's second dose in a two-dose series, such as the Pfizer or Moderna vaccines, or two weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine. See *When You've Been Fully Vaccinated*, CDC (May 13, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html#vaccinated> (discussing new guidance).

² On March 16, 2021, Pennsylvania adopted CDC guidance allowing individuals who are fully vaccinated against COVID-19 to forego wearing masks, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance. See Secretary of the Pennsylvania Department of Health, Order of the Acting Secretary of the Pennsylvania Department of Health Amending the November 17, 2020 Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings, Mar. 16, 2021.

each courtroom (a) indicating the maximum number of occupants; and (b) directing individuals to sit only in the designated seating areas. Court Officers shall be responsible for monitoring and strictly enforcing the courtroom capacity and staggered seating limitations in each courtroom. Each Magisterial District Judge shall be responsible for monitoring and strictly enforcing the courtroom capacity and staggered seating limitations at his/her Magisterial District Court.

3. Signs shall be posted in all courtrooms directing individuals to maintain minimum social distancing requirements.
4. The Secretary of the Pennsylvania Department of Health's order requires all individuals who are not fully vaccinated against COVID-19, age two or older, to wear a face covering when indoors or in an enclosed space, where another person or persons who are not members of the individual's household are present in the same space, irrespective of physical distance.³ The order provides no

³ Pursuant to the Secretary of the Pennsylvania Department of Health's November 17, 2020 order, the only applicable exception to this requirement for court employees who are not fully vaccinated against COVID-19 is if an employee is "working alone." Under the order, a person is "working alone" if he or she is isolated from interaction with other people with little or no expectation of in-person interruption. This includes:

- "a person alone inside an office with four walls and a door;
- a person alone inside a cubicle with three walls and a door or entryway, with walls high enough to block the breathing zone of all people walking by, *and* whose activity will not require anyone to come inside the cubicle."

FOOTNOTE CONTINUED ON THE NEXT PAGE

exceptions for government buildings, including courthouses and courtrooms. *See id.* The masks shall be made and worn in accordance with CDC guidelines found at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>. Notwithstanding the foregoing, masks shall not be required for individuals who cannot wear a mask due to a medical condition (including children under the age of two).

5. Pursuant to CDC guidance, residents, employees, and visitors to the Northampton County Juvenile Justice Center, including juvenile detention and treatment, must wear masks irrespective of vaccination status.⁴ Juvenile probation officers, including those who are fully vaccinated against COVID-19, are required to wear masks when present in the Juvenile Justice Center or when in contact with residents of the Juvenile Justice Center. Additionally, irrespective of vaccination status, all individuals who enter a courtroom in which a

FOOTNOTE CONTINUED FROM THE PREVIOUS PAGE

Secretary of the Pennsylvania Department of Health, Updated Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings, Nov. 17, 2020 (emphasis added).

⁴ *See Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, CDC (May 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Overview> (directing all individuals in correctional and detention facilities to wear masks).

resident of the Juvenile Justice Center and/or treatment center is present must wear a mask in accordance with paragraph 4 above.

6. If not fully vaccinated against COVID-19, the following individuals are prohibited from entering any courtroom or court facility under the supervision and authority of the President Judge, including all Magisterial District Courts, the Office of Court Administration, the Domestic Relations Building, the Juvenile Justice Center, and the offices of Adult Probation and Pretrial Services:

- Have been directed to quarantine, isolate or self-monitor at home for the coronavirus by any doctor, hospital or health agency; or
- Have been diagnosed with, or have had close contact with anyone diagnosed with, COVID-19; or
- Have flu-like symptoms; or
- Are not wearing a mask in accordance with Section V(1) above.

This Order is effective from May 18, 2021 at 8:30 a.m. through December 31, 2021 at 4:30 p.m.

BY THE COURT:


MICHAEL J. KOURY, JR.
PRESIDENT JUDGE