

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: SECOND JUDICIAL DISTRICT :
APPLICATION TO SUSPEND :
ANY STATE RULE RESTRICTING : Docket No. 44 MM 2020
USE OF ADVANCED :
COMMUNICATION TECHNOLOGY :

APPLICATION PURSUANT TO PA.R.J.A. NO. 1952

TO THE HONORABLE CHIEF JUSTICE MAX BAER AND JUSTICES OF THE
PENNSYLVANIA SUPREME COURT:

David L. Ashworth, President Judge of the Court of Common Pleas of Lancaster County, hereby respectfully requests the Supreme Court to enter an emergency order pursuant to Pennsylvania Rule of Judicial Administration No. 1952(B)(2)(m) and (s) authorizing the President Judge to temporarily suspend, as necessary, any state or local rule restricting the use of advanced communication technology ("ACT") in court proceedings, and in support of this request represents as follows:

1. As a result of the current COVID-19 surge, cases in Lancaster County have risen from a pandemic low 7-day average of 3 cases per day on July 8, 2021, to a 7-day average of 103 cases per day on August 15, a 3333% increase in barely over a month. Further, there is no sign that the present rate of increase in cases will abate in the near term. Per CDC measures of COVID-19 transmission rate, Lancaster County has moved from being considered a "substantial" transmission zone on July 27, 2021, the date of the CDC's revised guidance, to a "high" transmission zone at present.

2. Due in part to the pandemic-induced delay in criminal trials experienced over the past 17 months, the Lancaster County Prison (LCP) is experiencing overcrowding conditions which have now been exacerbated by increasing COVID-19 cases and the accompanying

need to quarantine prisoners who have tested positive or are suspected positive cases.

Effective August 18, 2021, LCP is closed to the public for a minimum of 21 days, due to a surge in positive or suspected COVID-19 cases.

3. Under the circumstances of such a COVID-19 surge, both transporting defendants from LCP throughout the county for in-person proceedings and conducting criminal jury trials and other in-person proceedings present a potential threat to prison and court staff, jurors, witnesses, parties, and counsel by exposing all such individuals to multiple prolonged enclosed contacts with defendants who may have been exposed to COVID-19 and others who are not members of the same household.

4. In-person court proceedings for any COVID-19 positive or suspected defendant cannot be held and must be continued, putting further strain on court resources into the future.

5. The expanded use of ACT permitted by the Supreme Court during the period of the declared judicial emergency was integral in allowing the courts of the Second Judicial District to move criminal matters through the system to the point of trial, thereby avoiding an untenable backlog of proceedings when the judicial emergency ended, and in-person proceedings recommenced. The availability of ACT as an alternative to conducting in-person proceedings is most helpful and necessary during surge conditions such as those currently presented, in which transporting defendants to either Magisterial District Courts or the Court of Common Pleas becomes both unduly burdensome and potentially dangerous.

7. The Sheriff of Lancaster County continues to experience a severe staffing shortage which is impeding the inmate transport between LCP and the Lancaster County Courthouse.

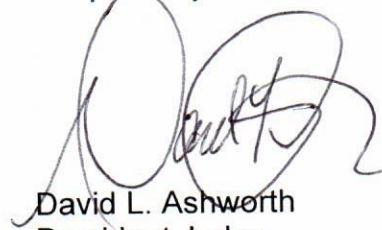
8. Many of the Magisterial District Courts lack prisoner holding cells or appropriate waiting areas to protect the inmate population from the transmission of COVID-19.

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9. The expanded use of ACT should be available as necessary to the Court given the uncertainties of the duration and severity of this and any future surge of the COVID-19 pandemic.

Wherefore, the undersigned respectfully requests that the Court enter an emergency order pursuant to Pa.R.J.A. No. 1952(B)(2)(m) and (s) authorizing the President Judge to temporarily suspend, subject to state and federal constitutional requirements, any state or local rule that restricts, directly or indirectly, the use of advanced communication technology in court proceedings through October 31, 2021, or such other time as the Court deems appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David L. Ashworth", written over a circular stamp or seal.

David L. Ashworth
President Judge
August 19, 2021