

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. 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, continuing COVID-19 surge, cases in Lancaster County have nearly doubled in the past month alone, rising from a 7-day average of 214.58 cases per day on November 17, 2021, to a 7-day average of 408.8 cases per day on December 22, 2021. With the presence of the Delta and Omicron variants, Lancaster County is on the verge of setting a pandemic record of Covid-19 hospitalizations. Per CDC measures of COVID-19 community transmission rate, Lancaster County remains in the "high" transmission zone.

2. Due in part to the pandemic-induced delay in criminal trials experienced over the past 21 months, the Lancaster County Prison (LCP) is experiencing overcrowding conditions which have been exacerbated by continuing outbreaks in COVID-19 positive

cases and the accompanying need to quarantine prisoners who have tested positive or who are suspected positive cases. Effective August 18, 2021, LCP was closed to the public due to a surge in positive or suspected COVID-19 cases; this closure has been continually extended since that date and will continue to be extended into the foreseeable future.

3. Under the circumstances of such a sustained 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 contact 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 positive defendant cannot be held and must be continued, putting further strain on court resources into the future.

5. Both LCP and the Sheriff of Lancaster County continue to experience a severe staffing shortage which is impeding the inmate transport between LCP and the Lancaster County Courthouse. At present, LCP remains operating with approximately 100 fewer employees than needed to adequately manage the size of its prison population.

6. 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.

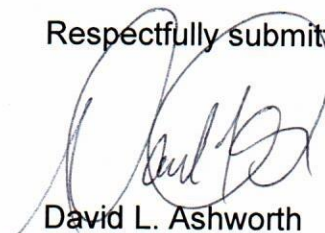
7. The expanded use of ACT permitted by the Supreme Court during the

period of the declared judicial emergency was integral in allowing the court 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 re-commenced. 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.

8. 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 February 15, 2022, or such other time as the Court deems appropriate.

Respectfully submitted,

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

David L. Ashworth
President Judge
December 22, 2021