

STATE OF INDIANA) IN THE LAKE SUPERIOR COURT
) SS: CRIMINAL DIVISION ROOM 2
COUNTY OF LAKE) CROWN POINT, IN

IN RE: THE SUSPENSION OF IN-PERSON HEARINGS, POSTPONMENT OF
CERTAIN PROCEEDINGS AND ALLOWING REMOTE ACCESS TO LAKE
SUPERIOR COURT CRIMINAL DIVISION ROOM 2

CAUSE NO.: 45G02-2003-CB-000060

Comes now the court and orders that all further proceedings currently scheduled in Criminal Division Room 2 shall be heard remotely by video conference or continued until after May 4, 2020. Pursuant to Ind. Rule of Evidence 201(a)(1)(A) and (B), the court takes Judicial Notice of the following:

To address the rapidly worsening COVID-19 Crisis, a State of Emergency has been declared by President Donald Trump and Governor Eric Holcomb. The Indiana Supreme Court has issued numerous orders regarding emergency measures that are to be taken by the courts in an attempt to contain the virus. Paramount among these measures is the adoption of social distancing and the use of teleconferencing for court proceedings.

It is critically urgent that all efficacious steps be taken by the State and citizenry to hinder the spread of the virus, including, but not limited to, social distancing. Although this court has already limited its court calls, more drastic measures are now required. If the court does not take these measures now, continuing to utilize in-person court calls will result in the further spread of the virus, endangering the court staff, lawyers, litigants, jail and Government Center employees. Moreover, further spread of the disease will have the likely consequence of straining our healthcare system to the point of collapse, endangering the general public as well. See Dr. Aaron E. Carroll and Dr. Ashish Jha, *This Is How We Can Beat the Coronavirus*, THE ATLANTIC, March 19, 2020; https://www.theatlantic.com/ideas/archive/2020/03/how-we-beat-coronavirus/608389/?utm_source=nextdraft&utm_medium=website see also, *Corona Virus: The Hammer and the Dance*, Tomas Pueyo, March 19, 2020, <https://medium.com/@tomaspueyo/coronavirus-the-hammer-and-the-dance-be9337092b56> (collecting and summarizing data from various scholarly journals and sources, including Johns Hopkins, the World Health Organization and *The Lancet*.) and “The Great Influenza,” John M. Barry, Viking Press, 2004.

Accordingly, all in-person hearings in the Lake Superior Court, Criminal Division Room 2 will be SUSPENDED until further order of this court.

Any court proceeding that does not involve the release of an individual from incarceration or the scheduling of a new trial date will be continued to a date after May 4, 2020, which is the current date set by our Supreme Court for the tolling of ALL ASPECTS of Ind. Criminal Rule 4. See Supreme Court Emergency Order of March 13.

Defense counsel shall file continuances for all such cases and coordinate, by telephone, new court dates with the court staff. For any proceeding for which a hearing is required, such as plea agreements involving the release of a Defendant from incarceration and bond reduction hearings, same will be conducted via video conference. Defense counsel and/or the State shall contact the court by phone 24 hours before such a hearing to give notice of such a need. Counsel are directed to contact the Data Department for specifics on how to utilize the system.

This court is not unmindful of the Sixth Amendment concerns attendant to conducting change of plea hearings, bail hearings and other evidentiary matters via video conferencing. In this regard, the court would offer the following. First, Admin. Rule 14(A)(1)(d) presently allows for teleconferencing when an individual is quarantined; the court is satisfied that social distancing qualifies as a quarantine within the spirit of the rule.¹ Second, LaPorte Superior Court Room 2 has already adopted this procedure for criminal cases. Third, the court will be able to identify the parties and witnesses visually (by video) alleviating any concerns as to an individual's identity; these proceedings will be recorded. Fourth, in the case of an incarcerated individual, secure, private communications in the jail between counsel and their clients have already been made available via GTL/Telemate. The court now finds and concludes that these measures are sufficient to preserve the integrity and the spirit of the Indiana and United States Constitutions, given the current emergency.

The court shall remain open for business, during the hours currently set by the Lake County Board of Commissioners, albeit the phones will be forwarded and answered remotely. Until further order of the court, the Criminal Division Room 2 court reporter and court secretary, or any employee of the Criminal Division currently assigned to Criminal Division Room 2 filling those roles, are authorized to work from home. All other employees of Criminal Division Room 2 are authorized to use the additional 10 paid days off the Judges of the Criminal Division approved last week.

This order shall take effect immediately following the conclusion of the March 23, 2020 morning court call. In the event technological problems prevent the court from resuming its duties remotely at any time, including March 24, hearings shall be rescheduled until the technical difficulties are resolved. The court will review the efficacy of these policies on a daily basis.

For any Criminal Division Room 2 case currently assigned to a Magistrate, this court authorizes the Magistrates to take any actions consistent with this order.

SO ORDERED MARCH 22, 2020

S/Michael N. Pagano (electronic signature)
MICHAEL N. PAGANO
JUDGE PRO TEMPORE

¹ The court has been advised that Administrative Rule 14, was in the process of being amended prior to the outbreak to allow for more liberal use of video conferencing across the board.