



*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/> 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 and include those dates in their proposed orders. 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 utilizing the website “Zoom,” which can be downloaded for free from the internet. See <https://zoom.us/> 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 and to provide the court with information such as email addresses in order to utilize Zoom. The phones for Division 2 will be forwarded and answered remotely. However, in an effort to streamline necessary communications, any attorney who does not presently have my cell number should call the Lake County Bar Office to obtain same. Counsel need not be reminded that I am a stickler for the Ex Parte Rule, but I trust you all to keep your communications within legal and ethical boundaries.

As to teleconferencing for hearings, 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 the Governor’s Executive Orders, *supra*, fall within the ambit and spirit of the rule.<sup>1</sup> 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.

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<sup>1</sup> 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.

The procedure for teleconferenced hearings is as follows: Once signed by the State and Defense Counsel, plea agreements or other pertinent documents should be scanned and emailed to the jail for signature by any incarcerated defendant at [jkitchen@lakecountysheriff.com](mailto:jkitchen@lakecountysheriff.com) and [sburke@lakecountysheriff.com](mailto:sburke@lakecountysheriff.com). Counsel are to send the documents to BOTH emails. The jail will forward the signed copies to the court. If scanning and emailing are not possible, counsel shall fax said documents to the jail at 219-755-3427. Exchange of documents such as exhibits admitted during hearings will be addressed on a case-by-case basis.

Within these parameters, Lake Superior Court Criminal Room 2 shall remain open for business. 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 remain authorized to use the additional 10 paid days off the Judges of the Criminal Division approved last week.

This order shall take effect immediately. In the event technological problems prevent the court from resuming its duties remotely at any time, 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 24, 2020

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