

NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE

PAMLICO COUNTY SUPERIOR COURT DIVISION

2020 SEP 21 P 2:15

CLERK OF SUPERIOR COURT
PAMLICO COUNTY

**ADMINISTRATIVE ORDER
JURY TRIAL RESUMPTION PLAN**

NOW COMES the undersigned Senior Resident Superior Court Judge and enters this Administrative Order concerning Court operations for the management of jury trials. This Administrative Order is in addition to all previous Orders.

The following protocols will be followed to best conduct jury trials safely for the jurors, court officials, parties and witnesses.

Jurors:

1. From a review of past attendance of persons who have been summoned for jury duty, the court concludes that when 120 summons have been issued, between 50 and 60 jurors typically appear for court after deferrals, excuses, and lack of service.
2. Based upon the probable response and the capacity of the superior courtroom, the Clerk shall summons 3 panels of 75 jurors for each trial term; the first to report at 1 p.m. on Monday, the second at 3 p.m. on Monday, and the third at 8:15 a.m. on Tuesday. The jurors summoned to appear on Monday shall be instructed to call the designated number on the summons after 5 p.m. on the Friday immediately preceding the term of court at which time they will be advised whether to report as directed or to call back at a later time for further instructions. Jurors summoned to appear on Tuesday shall call the designated number on the summons after 5 p.m. on Monday at which time they will be advised whether to report as directed or to call back alter for further instructions.
3. Prior to being sworn, all jurors who report will be asked if they reside with or have had close contact with someone who has tested positive for COVID 19, has been directed to quarantine, isolate or self-monitor at home for the coronavirus by any doctor, hospital or health agency

- due to exposure to someone with COVID 19, or have flu-like symptoms. If answered in the affirmative, that juror will be deferred.
4. Jury summons will be accompanied by a letter from the Court and a COVID questionnaire. The letter will advise jurors to follow the instructions on the summons if they are seeking a deferral or to be excused. The letter also have also advises jurors not to appear at court if they or someone with whom they live has tested positive for COVID and the quarantine period has not ended, or if on the day of court they have a fever or are experiencing symptoms which they believe to be COVID related. The letter will advise jurors how to complete and return the COVID questionnaire if they wish to be excused on that basis.
 5. Jurors will report to the courtroom in the Pamlico County Courthouse where they will receive jury service orientation. Every effort will be made to expedite their admission to the courthouse and to the appropriate courtroom. The Court has determined that this courtroom will accommodate 71 jurors with appropriate social distancing. Designated seating for the jurors with appropriate social distancing will be marked. Bailiffs will assist jurors as needed.
 6. During voir dire and the trial, jurors will not be seated in the traditional jury box. Rather they shall be seated outside the bar in chairs between the bar and the courtroom benches and on the second row of the benches to allow appropriate social distancing. This area will be clearly marked and cordoned off to exclude non jurors from the reconfigured "jury box".

Scheduling:

7. The Court recognizes that authority for calendaring criminal cases lies with the District Attorney pursuant to G.S. 7A-49.4. However, during the first 90 days after the Chief Justice's order allowing for the resumption of jury trials, criminal cases selected for trial shall be prioritized by the Senior Resident Superior Court Judge in consultation with the elected District Attorney (or his designee) and the Chief Public Defender or defense counsel. In the prioritizing of criminal trials careful consideration shall be given to the following factors: the extent to which a jury trial of the case can be conducted with safety for the health of all participants; the readiness of the case for trial; age of the case; whether or not the defendant is in custody; the complexity, number of parties and expected length of the trial.

8. All motions to suppress evidence shall be heard prior to the trial term. This does not apply to motions in limine involving, for example, Rule 404(b) evidence. Any motions to suppress filed in cases in which the State has provided discovery and the required notice under NCGS 15A-975(b) more than 90 days prior to filing of the motion shall be subject to be summarily denied by the Court for failure to comply with the statutory requirements.
9. Ten days before the jury term of court, the State will identify and publish the cases ready for trial and the order of trial. Defense counsel will be notified of the order of trial. If there is any question about whether the defendant will appear, the district attorney and presiding judge shall be notified in advance of the term. Calendar call for those on the trial list shall be on Monday morning of the term.
10. By Tuesday morning the first case for jury trial will have been identified, and the attorneys and that defendant must be in place to begin as soon as the jury is ready.
11. The seating arrangement in the courtroom for jurors will be provided to the attorneys prior to trial as well as the configuration of the courtroom to ensure appropriate social distancing.
12. After opening remarks by the court, the case will be introduced to the jurors. Jurors should be advised again of the health precautions taken by the county and the court. Jury selection will proceed in the same manner as prior to the pandemic.
13. Jurors from succeeding panels will not be called into the jury "box" until the previous panel has been exhausted.
14. If a second jury trial is commenced during that term of court, those jurors who were not called into the jury "box" will be required to return. Those jurors will be joined by any unused panel of jurors and they will be mixed together and randomly called into the jury "box."
15. Civil jury trials shall be calendared as before, however the trial judge shall have discretion to set the order of trials and determine which cases shall be called for trial. In doing so the Court shall consider the following factors: the extent to which a jury trial of the case can be conducted with safety for the health of all participants, the readiness of the case for trial, the age of the case, its complexity, the number of parties and the expected length of the trial.
16. Parties and counsel in civil trials are encouraged to stipulate to a jury of 6.

Courtroom:

17. The courtroom has been reconfigured to accommodate social distancing requirements. It will be necessary for counsel to use the microphone available to them on their table. Counsel will be allowed to position himself/ herself anywhere around the counsel table to best conduct jury voir dire. Counsel will be required to sit behind counsel table or at the end of the table to question witnesses.
18. During each recess the defendant will be given an opportunity to consult with his attorney. That opportunity will be stated in the record after each recess.
19. Witnesses will be allowed to sit in the courtroom if there is sufficient seating capacity that allows for appropriate social distancing.
20. During opening and closing statements counsel shall stand no closer than 10 feet from the jury.
21. Families of victims and defendants or other litigants will be permitted to sit on the back row of the court room after the trial starts (not during voir dire because courtroom capacity is insufficient to accommodate the jury pool and spectators).

Recesses:

22. Jurors may leave the courthouse and remain outside during a recess.

Evidence:

23. If a party desires to publish any documentary evidence to the jurors, it will be shown by use of ELMO or other electronic means on a flat screen or projector screen. If this is not possible counsel shall advise the court prior to trial.
24. No item of evidence will be passed from juror to juror for examination.
25. Counsel shall have pre-marked original exhibits, with copies for counsel, the judge, witness, and court reporter.
26. Any exhibit which cannot be published electronically shall be handled by counsel, witnesses, and jurors while wearing gloves.

Jury Deliberations:

27. The Court has determined that both the courtroom and the Commissioners' Hearing Room are sufficiently large to allow proper social

distancing for a jury of 12. After the jury has been given instructions by the court, they will deliberate in the courtroom or the Commissioner's Hearing Room. If the Commissioners' Hearing Room is used the jurors will be escorted by the bailiffs to that room. All entrances and exits to the courtroom or Commissioners' Hearing Room will be controlled by the bailiffs during deliberations.

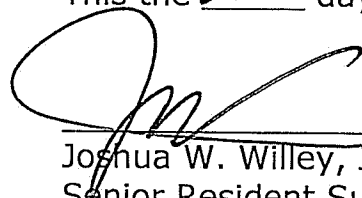
28. While the jury is deliberating, if possible, the seats used by the jurors during the trial will remain unoccupied until a verdict is reached. If that cannot be accomplished, before the jury is returned to the courtroom, the seats used by those jurors will be cleaned by housekeeping.
29. The provisions of paragraphs 30-32 below apply only if deliberations take place in the Commissioners' Hearing Room.
30. Any questions the jurors may have or requests for further instructions will be reduced to writing and delivered by the bailiffs to the courtroom for the court's consideration.
31. When the court needs to respond to a jury question or further instruct the jury, the jury will be escorted by the bailiffs to the courtroom. The jurors will return to the seats they occupied during the trial.
32. During deliberations and prior to the return of the verdict, the jury will be escorted to the courtroom before any midday or end of day recesses to receive the court's instructions.

Basic Health and Safety Requirements

33. The court facility to be used for court operations in Pamlico County is in compliance with each of the Chief Justice's emergency orders in response to the COVID-19 pandemic.
34. All persons in the court facility shall wear a face covering when in a common area of the facility and interacting with others. This requirement is subject to the exceptions set forth in Governor Cooper's Executive Order 147 and the Chief Justice's Emergency Directive 21. Masks will be offered to those who arrive at the courthouse without one, supplies permitting.
35. The Clerk shall post a notice of the above requirement at the entrance of the courthouse.
36. At all entrances to the courthouse the Clerk shall post the COVID notice required by the Chief Justice's Emergency Directive 2.

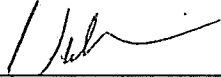
37. Masks will be offered to jurors, court personnel, witnesses, and parties if they arrive at the courthouse without one. Attorneys are expected to provide masks for themselves and their staff.
38. There is a security desk at the entry point to the courthouse. The bailiff will make the following inquiries of persons arriving at the entry point: Whether the person has tested positive for COVID; is currently subject to a directive to quarantine or isolate; whether the person resides with or has had close contact with someone who tested positive and is directed to isolate or quarantine; and whether the person is symptomatic.
39. If a person seeking to enter has tested positive and is currently subject to a directive to isolate or quarantine, or resides with or has had close contact with someone who has tested positive and is subject to a directive to isolate or quarantine, that person will not be allowed to enter the courthouse. The bailiff will take their name, address, and contact information and pass it on to the appropriate court.
40. All those entering the courthouse may be subjected to temperature checks.
41. Hand sanitizers will be available to jurors, witnesses, attorneys, litigants and court personnel every time they enter the courthouse.
42. The courtroom, deliberation room and other areas frequented by the jury will be subject to enhanced cleaning by the county.
43. It is impractical to try to draft a detailed plan of response in the event that a juror, party, witness, attorney, judge or other courtroom personnel should become symptomatic, test positive for COVID, or have a known exposure to someone who tests positive during the course of a trial. Should one of those events happen the Court shall immediately contact the county health department and follow that agency's recommendations regarding sanitizing the courtroom, testing of other participants in the trial and quarantine. The Court's decision whether to continue with the trial or declare a mistrial shall be informed by those recommendations.

This the 21st day of September, 2020.

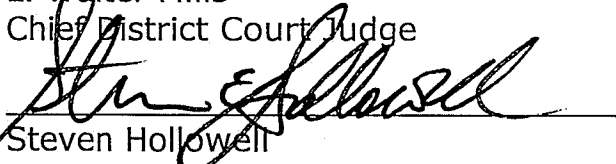


Joshua W. Willey, Jr.
Senior Resident Superior Court Judge

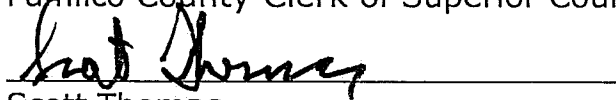
REVIEWED AND APPROVED BY:



L. Walter Mills
Chief District Court Judge



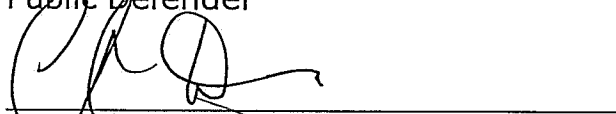
Steven Hollowell
Pamlico County Clerk of Superior Court



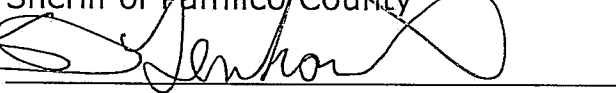
Scott Thomas
District Attorney



Daniel Potter
Public Defender



Chris Davis
Sheriff of Pamlico County



Scott Lenhart
Public Health Director