

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2020-031 PA/PI-CIR

**RE: CORONAVIRUS PANDEMIC (COVID-19)
CRIMINAL COURT PROCEEDINGS – REMOTE HEARINGS EXCEPTIONS**

Due to concerns regarding the spread and treatment of the Coronavirus, known as COVID-19, on March 1, 2020, Florida Governor Ron DeSantis signed executive order 20-51, declaring a public health emergency in the State of Florida. The Florida Supreme Court issued Administrative Order No. AOSC20-23, *Amendment 6*, regarding mitigating the impact of the Coronavirus on the court system. The Florida Supreme Court also issued Administrative Order No. AOSC20-32, *Amendment 3*, which provides recommendations for Operational Phase Transitions for the Circuits.

In order to provide for continued operations of the Court during an emergency, and in accordance with Article V, section 7, Florida Constitution, Rule of Judicial Administration 2.215, and section 43.26, Florida Statutes, several local administrative orders have been entered.

The Sixth Circuit has, pursuant to Administrative Order 2020-27 PA/PI-CIR, transitioned into Phase 2 and in order to effectively conduct the branch business in a consistent and efficient manner while addressing the considerable volume of criminal cases the court now finds:

1. The Supreme Court has implemented temporary measures essential to the administration of justice during the COVID-19 pandemic and has limited in-person hearings to essential and critical proceedings to mitigate the effects of the virus on the judicial branch and its participants while courts were in Phase 1.

2. The limits on in-person conduct of “other trial court proceedings” that were not identified as critical or essential may be eased if the circuit, or county within the circuit, has transitioned to Phase 2. Furthermore, the Supreme Court specifically noted the chief judge has the authority to approve proceedings or events that are required in the interest of justice, if doing so is consistent with the Supreme Court orders and the health and safety of the participants and public.

3. Although judges have been directed to conduct remote proceedings whenever possible, the Court has recognized that in criminal cases certain constitutional rights, statutory provisions, and rules must be considered.

4. It is necessary to approve exceptions to the requirement that proceedings be conducted remotely for certain criminal hearings and to include specific requirements to insure such matters are done in a safe manner that is consistent with the Supreme Court Administrative Orders.

THEREFORE, IT IS ORDERED:

The following remote conduct exceptions may be used in criminal cases for these specific proceedings under the following conditions.

1. CHANGE OF PLEA & SENTENCING:

Judges who are in facilities where arrangements can be made to conduct remote plea and sentencing proceedings should continue to use these procedures whenever possible. If not, and there is a plea and sentence that has been approved by the Court and accepted by the defendant in advance of the hearing, such matters may be set for an in-person hearing before the Court so that the defendant’s fingerprints can be taken and the judgement and sentence properly entered. In-person hearings shall not be set to consider if a plea and sentence might be agreed upon. Only the assigned judge may decide to set such a hearing after confirming it will be a plea for a certain sentence agreed to by the defendant and approved by the judge.

At all times during such a proceeding, the appropriate safety precautions, including social distancing of all participants and face coverings, shall be enforced by the Court. If the plea involves an in-custody inmate, specific arrangements with the jail must be made and the inmate shall not be brought into the court facility if he/she has known or likely exposure to the virus. Judges should be mindful of avoiding cross contamination and the Sheriff’s deputies need to maintain holding cell separation as well as the continuity of discrete inmate jail pod assignments. At no time shall more than one in-custody inmate be scheduled to come into a single holding cell or a courtroom for any proceeding.

2. EVIDENTIARY HEARINGS AND PROCEEDINGS REQUIRING WITNESS TESTIMONY:

Unless the defendant’s right to confrontation has been waived, proceedings in criminal court that require the presentation of evidence or testimony of live witnesses must be done in-person. The assigned judge may schedule such matters for hearing only if the cause can be conducted with all of the same health and safety protections associated with a jury trial. In addition, the hearing must be scheduled independent of any other proceeding. In other words, the courtroom must be reserved for that hearing alone and no other matters can be set on the Court’s calendar for that location during the entire period necessary to complete it.

As with jury trials, evidentiary hearings that involve in-custody defendants should have priority over out-of-custody cases. Hearings that require an inmate’s presence should be coordinated with the jail, as mentioned above, to avoid virus exposure in court or between separate inmate areas in the jail. Risks are increased during witness testimony and oral examination such that heightened precautions are required. Persons not needing to be present for the proceeding should not attend. To the extent that the public or others may wish to observe such a hearing they do so at their own risk and the back rows of the courtroom are available for such observers, however space in those areas will be limited by social distancing requirements.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida this _____ day of September 2020.

ORIGINAL SIGNED ON SEPTEMBER 22, 2020
BY ANTHONY RONDOLINO, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Nikki Alvarez-Sowles, Clerk of the Court, Pasco County
The Honorable Ken Burke, Clerk of the Court, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ita M. Neymotin, Regional Counsel, Second District
Ngozi C. Acholonu, Assistant Regional Counsel, Second District
Lillian Simon, Director of Administrative Services, Pasco County
Kimberly Thompson, Chief Operations Officer, Pasco County Clerk's Office
Bar Associations, Pasco and Pinellas Counties
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