

FILED

MAY 07 2020

ANGIE SPARKS, Clerk of District Court
By: **JREUGERS** Deputy Clerk

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN RE: CONTINUANCES DUE TO
NOVEL CORONAVIRUS AND
COVID-19 DISEASE.

Cause No. SB-2020-14

THIRD AMENDED ORDER

On March 20, 2020, the First Judicial District Court issued an Amended Order (Order) relative to the Court's operations being adversely affected by the ongoing coronavirus pandemic. Pursuant to paragraph 19 of the Order, this Third Amended Order is intended to extend the date certain continuances set forth in the Order through July 3, 2020.

Accordingly, **IT IS HEREBY ORDERED** that the Lewis and Clark County and Broadwater County courthouses located in Helena and Townsend will remain open subject to the following limitations:

1. All jury trials (criminal and civil) currently scheduled to begin on or before July 3, 2020 are vacated, to be reset by the presiding judge. All civil commitment jury trials are not vacated and will proceed as scheduled by the presiding judge.

1 2. For purposes of any asserted criminal speedy trial violation
2 analysis, any delay directly attributable to this Third Amended Order shall be
3 charged to the State as institutional delay. See *State v. Ariegwe*, 2007 MT 204,
4 338 Mont. 442, 167 P.3d 815.

5 3. Any criminal defendant in custody who has been
6 quarantined in the Lewis and Clark County Detention Center (LCDC) or the
7 Broadwater County Detention Center (BCDC) by a Centers for Disease Control
8 and Prevention (CDC) order or other foreign or domestic public health official
9 shall not be allowed to appear in court without prior court permission.

10 4. Any litigant, including but not limited to non-custodial
11 defendants, counsel and/or witnesses who have been quarantined by a CDC order
12 or other foreign or domestic public health official shall not be allowed to appear
13 in Court without prior Court permission.

14 5. Any criminal defendant who requests a continuance, bond
15 review, motion to suppress, or any other motion shall be excused from appearing
16 personally before the court if they are in custody at the LCDC, the BCDC or any
17 other custodial location. Any paperwork requiring a defendant's signature will
18 be processed by either the Lewis and Clark County Sheriff's Office or the
19 Broadwater County Sheriff's Office.

20 6. Any criminal defendant scheduled for a motion to suppress,
21 evidentiary hearing, bench trial, or any other scheduled evidentiary hearing shall
22 only be transported from the LCDC or the BCDC (unless such person has been
23 quarantined) if other appearance arrangements cannot be made by phone, video,
24 Skype, Google Chat, or by other agreements of the parties.

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1 7. All transport requests shall be made by defendant's attorney.
2 No defendant shall be transported unless requested by his/her attorney.

3 8. For any jury trial (civil or criminal) continued by this Third
4 Amended Order, the parties shall, in good faith, engage in traditional plea
5 negotiations or settlement negotiations via phone, video, Skype, Google Chat, or
6 by other social safe means as agreed to by the parties.

7 9. This Third Amended Order does not vacate any pending
8 deadlines (criminal and civil) other than the jury trial dates.

9 10. Attorneys or *pro se* individuals seeking to modify any other
10 deadlines must file a motion.

11 11. All non-jury proceedings such as bench trials, in-person
12 hearings, change of plea hearings, bond hearings, summary judgment hearings,
13 and any other in-court appearances may be held at the presiding judge's
14 discretion. Attorneys or *pro se* individuals may request to continue such hearings
15 or request leave to appear remotely by appropriate motions. Telephonic or video
16 appearances are encouraged so long as deemed appropriate by the presiding
17 judge. This Order does not limit a judge's discretion to consider and decide a
18 pending matter without oral argument.

19 12. Until further notice, all preliminary criminal matters filed in
20 district court such as initial appearances and arraignments shall be conducted by
21 telephonic or video means to the greatest extent possible.

22 13. All Dependent Neglect (DN) status hearings before a district
23 judge are vacated through July 3, 2020.

24 14. All in-court and group Treatment Court
25 proceedings/meetings are suspended until July 3, 2020.

1 15. Counsel or *pro se* individuals are encouraged to
2 electronically file all pleadings. Compliance with Local Rule 5Jiii (“A hard copy
3 original of an emailed document must be provided within five business days”) is
4 waived through July 3, 2020.


5 16. Litigants and attorneys who arrive in court and report they
6 are not feeling well shall be ordered to reschedule their appearance.

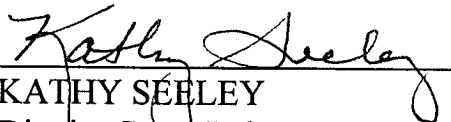
7 17. The public and practicing bar are encouraged to continue
8 using First Judicial District Court services while strictly following all applicable
9 public health guidelines.

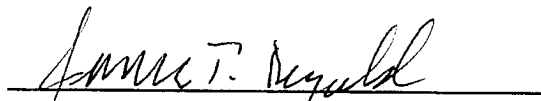
10 18. In the event any individual being held in custody at the
11 LCDC or the BCDC tests positive for the novel coronavirus or COVID-19, the
12 Lewis and Clark County Sheriff or the Broadwater County Sheriff shall
13 immediately notify each other by email as well as all district judges, justices of
14 peace, and city/municipal judges in Helena, East Helena, and Townsend.

15 19. The First Judicial District Judges will continue to assess the
16 public health situation during the pendency of this Order. They may vacate,
17 extend, or amend this Order as circumstances require.

18 **ORDERED** this 7 day of May 2020.

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20 
21 MIKE MENAHAN
22 Chief District Court Judge

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21 KATHY SEELEY
22 District Court Judge

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24 JAMES P. REYNOLDS
25 District Court Judge

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24 MICHAEL F. McMAHON
25 District Court Judge

1 cc: Leo Gallagher, Lewis and Clark County Attorney (hand-delivered)
2 Cory Swanson, Broadwater County Attorney (via email)
3 Suzanne Seburn, Office of Public Defender (via email)
4 Leo Dutton, Lewis and Clark County Sheriff (hand-delivered)
5 Wynn Meehan, Broadwater County Sheriff (via email)
6 Angie Sparks, Lewis and Clark County Clerk of Court (hand-delivered)
7 Val Hornsveld, Broadwater County Clerk of Court (via email)
8 Honorable Mike McGrath, Montana Supreme Court Chief Justice (via
9 email)
10 Honorable Kirk Flynn, Broadwater County Justice of Peace/City of
11 Townsend Judge (via email)
12 Honorable Mike Swingley, Lewis and Clark County Justice of Peace
13 (hand-delivered)
14 Honorable Ann Peterson, City of Helena Judge (hand-delivered)
15 Montana Bar Association (via email)
16 Montana Judges Association (via email)

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