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FILED

MAR 19 2020

ANGIE SPARKS, Clerk of District Court
By _____ Deputy Clerk

AMBER M MULLEN

**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

ORDER

The First Judicial District Court's operations are being affected by the ongoing pandemic situation created by the spread of the novel coronavirus first detected in China and resulting outbreak of COVID-19 respiratory disease. It has become increasingly difficult for parties, counsel, court, clerk of court, pre-trial services, probation and parole, and detention center staff to be present in the courtroom while at the same time strictly following public health recommendations relative to mitigating the virus and disease.

The United States President, Montana Governor, Lewis and Clark County Commission, Broadwater County Commission, City of Helena, and City of East Helena have each declared public health emergencies in response to this pandemic situation. Slowing the virus' transmission is very important in trying to mitigate this situation. In this regard, assessing the virus' known risk

1 is difficult based upon the increasing evidence that asymptomatic virus carriers
2 can transmit the virus and the confirmation of positive Montana carriers. The
3 Centers for Disease Control and Prevention (CDC), Montana Department of
4 Public Health, Lewis and Clark County Department of Public Health, and
5 Broadwater County Department of Public Health have each issued advisory
6 precautions to try to reduce virus exposure and slow the disease's spread.

7 Based upon this compelling evidence, the First Judicial District Court
8 has been persuaded that the risks associated with this pandemic presumptively
9 outweigh the necessity of certain in-court proceedings in the First Judicial
10 District. Accordingly, it is **HEREBY ORDERED** that the Lewis and Clark
11 County and Broadwater County courthouses located in Helena and Townsend
12 will remain open subject to the following limitations:

13 1. All jury trials (criminal and civil) currently scheduled to begin
14 on or before May 1, 2020 are vacated, to be reset by the presiding judge.

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

19 3. Any criminal defendant in custody who has been quarantined in
20 the Lewis and Clark County Detention Center (LCDC) or the Broadwater County
21 Detention Center (BCDC) by a CDC order or other foreign or domestic public
22 health official shall not be allowed to appear in court without prior court
23 permission.

24 4. Any litigant, including but not limited to non-custodial
25 defendants, counsel and/or witnesses who have been quarantined by a CDC order

1 or other foreign or domestic public health official shall not be allowed to appear
2 in court without prior court permission.

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

9 6. Any criminal defendant scheduled for a motion to suppress,
10 evidentiary hearing, bench trial, or any other scheduled evidentiary hearing shall
11 only be transported from the LCDC or BCDC (unless such person has been
12 quarantined) if other appearance arrangements cannot be made by phone, video,
13 skype, google chat, or by other agreements of the parties.

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

16 8. For any jury trial (civil or criminal) continued by this Order, the
17 parties shall, in good faith, engage in traditional plea negotiations or settlement
18 negotiations via phone, video, skype, google chat, or by other social safe means
19 as agreed to by the parties.

20 9. This Order does not vacate any pending deadlines (criminal and
21 civil) other than the jury trial dates and final pretrial conferences.

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

24 11. All non-jury proceedings such as bench trials, in-person
25 hearings, change of plea hearings, bond hearings, summary judgment hearings,

1 and any other in-court appearances may be held at the presiding judge's
2 discretion. Attorneys or *pro-se* individuals may request to continue such
3 hearings or request leave to appear remotely by appropriate motions. Telephonic
4 or video appearances are encouraged so long as deemed appropriate by the
5 presiding judge. This Order does not limit a judge's discretion to consider and
6 decide a pending matter without oral argument.

7 12. Until further notice, a district court judge shall preside over
8 preliminary criminal matters filed in district court such as initial appearances and
9 arraignments. Counsel shall be prepared to present bond arguments and/or
10 suggested bond conditions at arraignments. These proceedings shall be
11 conducted by telephonic or video means to the greatest extent possible.

12 13. All dependent neglect (DN) status hearings before a district
13 judge are vacated through May 1, 2020.

14 14. All in-court and group Treatment Court proceedings/meetings
15 are suspended until May 1, 2020.

16 15. Counsel or *pro-se* individuals are encouraged to electronically
17 file all pleadings. Compliance with Local Rule 5Jiii ("A hard copy original of an
18 emailed document must be provided within five business days") is waived
19 through May 1, 2020.

20 16. Litigants and attorneys who arrive at court and report they are
21 not feeling well shall be ordered to reschedule their appearance.

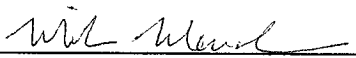
22 17. The public and practicing bar are encouraged to continue using
23 First Judicial District Court services while strictly following all applicable public
24 health guidelines.


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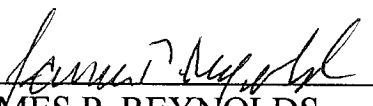
1 18. In the event any individual being held in custody at the LCDC
2 or BCDC tests positive for the novel coronavirus or COVID-19, the Lewis and
3 Clark County Sheriff or the Broadwater County Sheriff shall immediately notify
4 each other by email as well as all district judges, justices of peace, and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

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

9 ORDERED this 19th day of March 2020.

10
11 
12 MIKE MENAHAN
13 Chief District Court Judge


KATHY SEELEY
District Court Judge

14
15 
16 JAMES P. REYNOLDS
District Court Judge


MICHAEL F. McMAHON
District Court Judge

17
18 c: Leo Gallagher, Lewis and Clark County Attorney (hand-delivered)
19 Cory Swanson, Broadwater County Attorney (via email)
20 Suzanne Seburn, Office of Public Defender (via email)
21 Leo Dutton, Lewis and Clark County Sheriff (hand-delivered)
22 Wynn Meehan, Broadwater County Sheriff (via email)
23 Angie Sparks, Lewis and Clark County Clerk of Court (hand-delivered)
24 Val Hornsveld, Broadwater County Clerk of Court (via email)
25 Honorable Mike McGrath, Montana Supreme Court Chief Justice (via email)
Honorable Kirk Flynn, Broadwater County Justice of Peace/City of Townsend
Judge (via email)
Honorable Mike Swingley, Lewis and Clark County Justice of Peace (hand-
delivered)

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Honorable Annie Peterson, City of Helena Judge (hand-delivered)
Montana Bar Association (via email)
Montana Judges Association (via email)

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