

IN THE SUPREME COURT OF PENNSYLVANIA

WESTERN DISTRICT

IN RE: :
FIFTH JUDICIAL DISTRICT :
REQUEST FOR EMERGENCY : No. 23 WM 2020
JUDICIAL ORDER :
:

1. Kim Berkeley Clark, President Judge of the Fifth Judicial District, having previously declared a judicial emergency in the District through August 31, 2021, hereby requests the following relief by Order of the Pennsylvania Supreme Court:
 - a. Authorize the President Judge to extend the current judicial emergency in the Fifth Judicial District and take the actions listed below in paragraph b as authorized by Pa.R.J.A. No. 1925(B) (2) through October 1, 2021.
 - b. Suspend or modify statewide procedural or administrative rules in this judicial district as follows:
 - 1) Suspend application of Pennsylvania Rule of Criminal Procedure 600 through October 1, 2021, to the extent consistent with constitutional limitations.
 - 2) Suspend application of the Pennsylvania Rules regarding the use of Advanced Communication Technology subject to constitutional limitations provided that judges and judicial officers are present in court facilities during the proceedings.
2. The circumstances necessitating this request for an emergency judicial order are those related to the existing COVID-19 public health emergency in the District.
 - a. There has been a significant increase in COVID-19 cases over the

past month in the District.

- b. The CDC level of community transmission classification in Allegheny County increased from substantial to high during week of August 14, 2021. See [CDC COVID Data Tracker](#);
- c. The number of COVID-19 cases in the County continues to increase weekly. During the week of June 20, 2021, there were 70 confirmed cases, an average of 10 cases per day compared to the week of August 8, 2021, during which there were 969 confirmed cases of COVID-19, an average of 138 cases per day. Most recently, on August 25, 2021, there were 318 new cases, 196 confirmed cases and 122 probable cases for that day alone. There is no indication that the present rate of cases will abate in the near term. See <https://www.alleghenycounty.us/Health-Department/Resources/COVID-19/COVID-19-Dashboards.aspx>;
- d. Consistent with the rest of the community, the Allegheny County Jail is also experiencing an increase in COVID-19 cases. In July there were two positive cases out of 92 tests and the positive cases were transferred from other jurisdictions. As of August 23, 2021, 110 persons who have currently tested positive are in the facility. See <https://www.alleghenycounty.us/jail/index.aspx>;
- e. The increase in COVID-19 cases in the Allegheny County Jail has resulted in a further delay in some court proceedings, due to quarantine of inmates and transportation issues. In-person proceedings cannot occur for those who have tested positive or for those who are quarantined.
- f. In 2018 and 2019 there were 116 and 108 jury trials held in the Criminal Division. In 2020, due to the restrictions necessitated by the pandemic, there were only 19 jury trials held in the Criminal Division. In 2021, to date, there have been 21 jury trials held in the Criminal Division. While the Division is trying as many jury trials as possible, unfortunately, the backlog of jury trials is high and the rising number of COVID cases is likely to make it difficult to continue trying jury trials at the current pace.
- g. The Fifth Judicial District implemented a masking policy for court users regardless of vaccination status and court employees on August 8, 2021.

3. To the extent possible and practical under the circumstances, notice of this request for an emergency judicial order has been or will be:

- posted on the Fifth Judicial District's website
- submitted to the Administrative Office of Pennsylvania Courts for publication pursuant to Rule of Judicial Administration No. 1952(C)(5)

4. Interested parties are advised that objections to any emergency judicial order issued by the Supreme Court should be transmitted to the Supreme Court Prothonotary.



Kim Berkeley Clark, President Judge

Dated: August 26, 2021