Supreme Court of Virginia

IN RE: ORDER EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY

On March 16, 2020, the Chief Justice, having received a request from the Governor pursuant to Va. Code § 17.1-330, entered an Order declaring a judicial emergency, recognizing the need to protect the health and safety of court employees, litigants, attorneys, judges, and the general public. After careful consideration and review, the Justices of this Court hereby unanimously ORDER that the declaration of judicial emergency be in effect and continue beginning April 6 through April 26, 2020, for all district and circuit courts of the Commonwealth.

Except as provided in this order, the courts and clerks' offices shall remain operational and provide services required by law while, at the same time, maintaining protections for the health and safety of court users and personnel. With the exception of matters enumerated herein, all applicable deadlines, time schedules and filing requirements, including any applicable statute of limitations which would otherwise run during the period this order is in effect, are hereby tolled and extended, pursuant to Va. Code § 17.1-330(D), for the duration of this Order.

All courts shall implement the following measures during this extended period absent a specific exception as listed below.

1. The court shall continue all civil, traffic and criminal matters, including jury trials, except for emergency and other matters as provided in this Order. For example, routine proceedings, including but not limited to non-emergency: warrants in debt, unlawful detainers, issuance of garnishments and writs of eviction shall be continued during the period this Order is in effect.
2. In any matter heard or considered by a court as provided in this order, judges shall exercise their discretion as necessary in determining whether the matter is urgent and must be heard

without delay in order to protect important liberty and constitutional interests and the health and safety of the parties, and others necessarily involved and affected by the proceedings.

3. The court's determination that a criminal case must be heard in order to avoid violating a defendant's right to a speedy trial shall be made by the presiding judge on a case by case basis. Among other things, considerations may include the liberty interests of the defendant, and the health and safety of the parties, attorneys, court personnel, and others necessarily involved and the ability of the court to safely proceed, taking into account the ability of the court to use technology as authorized by law, social distancing and other measures.
4. The court shall give precedence on the docket to emergency matters including, but are not limited to, quarantine or isolation matters, criminal arraignments, bail reviews, protective order cases, emergency child custody or protection cases, civil commitment hearings, petitions for temporary injunctive relief, proceedings related to emergency protection of elderly or vulnerable persons, petitions for appointment of a guardian or conservator, and proceedings necessary to safeguard applicable constitutional protections. Judges should exercise their discretion with regard to holding ongoing jury trials, grand jury proceedings, cases where the defendant is incarcerated, foster care cases, and child dependency cases. The exercise of discretion should focus primarily on considerations of the liberty and constitutional interests at stake, the health and safety of the parties, attorneys, court personnel, and others necessarily involved, and the ability of the court to safely proceed, taking into account the ability of the court to use technology as authorized by law, social distancing and other measures.
5. To the extent authorized by law, all matters that a court hears pursuant to this Order should be conducted by two-way electronic audio-visual communication, if available. The parties, attorneys, witnesses and others should be allowed to appear by such two-way electronic audio-visual communication in order to reduce or eliminate the need for parties, attorneys and others necessarily involved to physically appear in the courthouse. If a party, witness, or other

participant is unable to participate via the provided secure communication platform such as Polycom or Webex, if available, then, upon request to the court, they may participate by telephone. Requests to participate by telephone should be liberally granted.

6. The court shall continue all ceremonies, such as specialty court graduations and juvenile licensing ceremonies.
7. The court shall limit courtroom attendance in any matters that cannot be continued to attorneys, parties, necessary witnesses, interpreters, court personnel, court reporters, bailiffs and those deemed necessary by the presiding judge, and members of the press where permitted by law.
8. The court should issue summonses in lieu of capiases for failure to appear.
9. For jury trials that cannot be continued, the court should excuse or postpone jury service for jurors who are in a high-risk category as defined by the Centers for Disease Control and Prevention (CDC) at https://www.cdc.gov/, or who are ill, caring for someone who is ill, or are caring for children under the age of 16.
10. The court should require attorneys to use e-Filing if available.
11. The court should require individuals with legitimate court business who are ill, caring for someone who is ill, or who are otherwise in a high-risk category, as defined by the CDC, to call the clerk of court or other appropriate court personnel to request an appropriate accommodation.
12. The court shall consult with the sheriff about posting signage at all public entry points advising individuals not to enter the building if they have, within the previous 14 days:
    a. visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC;
    b. traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
    c. been asked to quarantine, isolate, or self-monitor by any doctor, hospital, or health agency;

d. been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19;

e. experienced a fever, cough, or shortness of breath; or

f. resided with or been in close contact with any person in the above-mentioned categories.

Individuals attempting to enter the court in violation of these protocols shall be denied entrance by a bailiff or court security officer, and will be directed to contact the clerk's office by telephone or other remote means to inform the clerk of their business before the court so as to receive further instruction regarding alternate arrangements for court access.

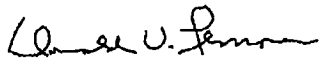
13. The sheriff and/or bailiffs shall prohibit individuals or groups from congregating anywhere in the courthouse, and require social distancing throughout the courthouse, including inside the courtroom.

14. Nothing in this Order shall preclude the chief district and chief circuit judges from implementing additional local policies as needed, and as allowed by law.

15. If a court finds it necessary to limit access to the court clerk's office for any time during the scope of this order, the clerk's office shall, nonetheless remain accessible during regular business hours by telephone and email, with such contact information posted on the Internet and at any public entrance(s). If available, drop boxes should be used for any conventionally filed documents and clerks shall take steps to safely accommodate any individual(s) requiring access for important matters, including but not limited to, title or record searches and recordation of land records.

This Order shall be effective beginning April 6 through April 26, 2020. This Order may be extended for additional periods as provided in Va. Code § 17.1-330. It is so ORDERED.

THE SUPREME COURT OF VIRGINIA



CHIEF JUSTICE DONALD W. LEMONS

Entered 3/27/2020