

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF PENDER

20 R 133

FILED

2020 OCT 12 A 8:47

**ADMINISTRATIVE ORDER
FOR JURY MANAGEMENT AND TRIALS**

PENDER CO. CLERK
BY [Signature]

TRUE COPY
CLERK OF SUPERIOR COURT
PENDER COUNTY
BY [Signature]
ASSISTANT CLERK SUPERIOR COURT

In accordance with the emergency directives of the Chief Justice of the North Carolina Supreme Court, in the exercise of the court’s discretion and its inherent authority to protect the health, safety and welfare of the participants in our legal system, and balancing the constitutional rights of the defendant under the North Carolina and United State Constitution, the following rules shall govern the trial of all civil and criminal cases in the District and Superior Court for Pender County:

Basic Health and Safety Requirements

1. All persons who enter the superior court courtroom shall wear a facial covering or mask until directed by the presiding judge to remove it. A facial covering or mask means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. Face coverings shall be available at the security station upon entering for the courthouse for any juror, witness or other participant who does not have an adequate face covering.
2. No persons shall be permitted to wear any clothing or personal protective equipment that includes any political statement, controversial or inciteful remark, design or insignia.
3. All persons entering the courtroom shall maintain safe social distancing.
4. Attorneys are responsible for providing masks and face coverings to their clients and all others who enter the courtroom who are accompanying the attorney’s client.
5. Hand sanitizer should be used by all persons entering the courthouse, after each visit to the restroom and after every recess.
6. Each court facility to be used for court operations is in compliance with each of the Chief Justice’s emergency orders in response to the COVID-19 outbreak.
7. All court personnel, bailiffs, attorneys, witnesses, jurors and other court participants are directed to check their own temperature and assess symptoms prior to reporting to court.

8. A list of symptoms of COVID can be found at the Center for Disease Control website and the North Carolina Department of Health and Human Services website. If any court personnel, bailiffs, attorneys, witnesses, jurors or other court participants are symptomatic but have not tested positive for COVID, they shall:
 - a. If serving as a juror, notify the clerk of superior court at the number provided on your jury summons immediately and do not report until otherwise notified to do so by the court.
 - b. If you are a witness or party to the case, notify your attorney or the attorney who would be calling you as a witness before appearing in court. Attorneys are responsible for making sure their client and any witnesses they intend to call are aware of the requirement to self-assess before reporting to court. Do not come to the courtroom until instructed to do so.
 - c. If you are an attorney or bailiff, notify the court and opposing counsel and do not to appear in court unless instructed to do so. If there is any question about counsel's ability to appear, a Webex video conference shall be set up by the presiding judge.
9. Close contact with persons who are symptomatic or tested positive for COVID:
 - a. "Close contact" is defined by the CDC as contact less than six feet for greater than fifteen (15) minutes starting from 48 hours before illness onset.
 - b. If you are notified by the Health Department or are otherwise made aware of close contact with an infected individual, you should stay home, maintain social distancing, and self-monitor until 14 days from the date of last exposure. Local health officials recommend testing at day six. Health officials have determined that it may take that length of time for the disease to build up sufficiently to be detected by the current testing process.
 - c. Jurors should notify the Clerk of Superior Court as soon as possible in the event they are required to stay at home. Witnesses and parties should notify their attorney and bailiffs and attorneys shall notify the presiding judge as soon as possible.
 - d. In no event should a person falling into this category report to the courtroom unless otherwise approved to do so by the presiding judge.

Jurors:

10. The letter from the court and questionnaire attached to this order as Exhibit A will be mailed to all potential jurors with the jury summons. Jurors are directed in the letter to return the questionnaire by the date noted in the jury letter.
11. All prospective jurors who return the questionnaire and indicate that they reside with or have been in contact with someone who has tested positive for COVID-19 within the past two weeks, have been directed to quarantine, isolate or self-monitor at home by any doctor or health care provider, who fall into the high risk groups identified by the Center for Disease Control or who provides care for a person in that category will be deferred.
12. Jurors who report to the clerk up to the Monday morning before trial is scheduled to begin will be deferred if they report a change since return of their questionnaire that would place them in a category eligible for deferment. Those jurors will not be required to come to the courthouse to avoid the possibility of disease spread.
13. Jurors shall be summoned in two panels. Panel A shall be notified to appear on the Monday of the trial week and shall include a total of 75 persons. Panel B shall be notified to appear on Tuesday and shall include a total of 50 persons. Jurors will be given an assigned seat number by the bailiff when they enter the courtroom and shall be seated only in the seat assigned to them within the courtroom until directed otherwise by the presiding judge. Seating in the Dee's courtroom is limited to 30 potential jurors. If more than 30 potential jurors report, the bailiff shall record the names of those additional jurors and they shall be directed to return at 1:30 p.m.
14. If jurors have not completed a questionnaire, they will be given one to complete and will provide their phone number and email address to the jury clerk.
15. During jury selection as jurors are excused, an alcohol or cleaning wipe will be provided by the bailiff to the next juror taking the seat to wipe down the chair if they wish.
16. Once a juror has been accepted by the State and the Defendant that juror will be permitted to leave. The clerk will ensure that the juror has provided a phone number and email address for immediate contact. The jurors will be instructed to call the number on their jury summons at the close of business each day for further instructions on when to report.
17. Voir dire shall be conducted from counsel's table.
18. Due to the limited amount of seating in the courtroom with social distancing and in order to limit the potential spread of communicable diseases, no members of the public or witnesses will be permitted in the courtroom during jury selection. For Victim's Rights Acts cases when the victim wishes to be present in the courtroom during jury selection the victim may

be seated at or behind the prosecution table but shall not be seated in the gallery. After the trial has commenced, the victim shall be seated in the gallery.

Conduct of the trial - Criminal

19. On Thursday, October 1, 2020 an administrative calendar call shall be scheduled for all pending criminal cases in Pender County in which the defendant has been arraigned or has otherwise been designated for trial. This calendar call will be for the purpose of establishing an order for trials to occur during the period from September through December. The District Attorney shall prepare the calendar for this session by age of case determined from the date of indictment. At the conclusion of this administrative session the District Attorney will publish the order of trials for the quarter. Cases will be called for trial in the order they appear on that published trial order.
20. For each session of court after the trial priority list is established, counsel for the State and Defendant shall be prepared to try and have issued subpoenas for the next two trials on the list so that if the first case has to be continued, the next trial will be prepared to begin.
21. If there is any question about the availability of a witness or question whether the defendant will appear, the district attorney and presiding judge shall be notified no later than the first Friday of the month in which the case is scheduled to be tried. Counsel for the state and defendant must issue subpoenas well in advance of the trial date and make diligent inquiry of all witnesses to determine availability to meet this timeline. Motions to continue must be made prior to the session and will not be permitted on the day of the session.
22. There will be no calendar call on the Monday of a trial session. The next case on the trial priority list will be called once the jury venire is in place and has completed their orientation. Counsel for the second trial on the priority list should be available in the event their presence is needed in the courtroom but, due to space limitations, should remain outside of the courtroom.
23. All criminal jury trials shall seat at least two alternate jurors. After the jury is impaneled, in the event a seated juror is unable to attend court due to a COVID related issue, that juror shall be excused and an alternate juror seated in his or her place. If there are no remaining alternate jurors, the Court may elect to delay the trial or may declare a mistrial based on the facts and circumstances existing and known to the court at that time.

Conduct of Jury Trials – Civil

24. Trial calendars for each civil Superior Court session are published four weeks in advance of the trial date. Counsel shall take immediate steps to insure the availability of all witnesses for the trial. Motions will be heard by Webex on the Monday of each session and the jury trial shall commence on Tuesday morning. Trials that can be completed in one week or less

will be given priority. Motions to continue made less than two weeks prior to the trial date will not be permitted absent exigent circumstances.

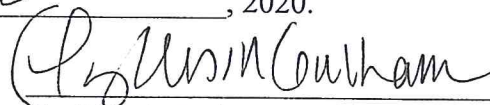
25. Counsel in all civil cases are encouraged to stipulate to a unanimous verdict of less than twelve to avoid the necessity of seating alternate jurors and to insure that the trial can continue in the event jurors have to be excused due to COVID related issues.
26. In the event a jury trial is demanded for a District Court matter, counsel shall confer with the Chief District Court Judge to make arrangements for scheduling.

Conduct of Jury Trials – Applicable to all cases

27. Opening and closing arguments will be made from a podium positioned by the court to allow for proper social distancing. Attorneys will be required to argue from the podium and will not be permitted to approach the jury any closer than the front of the podium.
28. The witness stand will be positioned in front of the bench between counsel tables facing the jury. Absent exceptional circumstances, counsel will not be permitted to approach the witness. Any exhibits counsel wishes to hand to a witness shall be provided to the bailiff who will then hand the exhibit to the witness. The bailiff shall wear gloves and a mask. The witness stand shall be surrounded on three sides by a plexiglass shield.
29. During testimony, the witness will not be permitted to wear a mask. Counsel shall advise all witnesses of this rule prior to their appearance in court. The witness must, however, wear a mask at all other times while in the courthouse. Sanitizing wipes shall be made available at the witness stand for each witness to wipe down the table and chair if they so desire.
30. It is the responsibility of counsel for the state and defendant to contact all witnesses whom they intend to call and ensure that the witness has not exhibited any of the symptoms of Coronavirus or any other communicable disease, has not been advised by the Health Department to quarantine due to close contact and is otherwise healthy and able to testify. If any witness is unavailable it is the responsibility of counsel to bring that to the court's attention before the case is called for trial.
31. If counsel wishes to publish any exhibit to the jury, counsel must make arrangements for the exhibit to be displayed on a television screen or projector of sufficient size to enable the jury to see and hear the exhibit or shall have sufficient copies of the exhibit to provide one copy to each juror. Projection or display of the exhibit is the preferred method of publishing exhibits to the jury. If copies of the exhibits are to be provided to the jury, counsel will provide them to the bailiff who will then deliver them to the jury. This bailiff shall wear gloves and a mask when approaching the jury.

32. In a typical trial, the jury, once impaneled, would report to the jury holding room. Court would open and once any matters counsel wishes to raise outside of the presence of the jury have been addressed, the jury would be brought into the courtroom. For the Dee's building, as long as jurors have no issues traversing the stairs, they will meet on the second floor each morning and be brought into the courtroom when the court is ready to begin its business. For each break, they will be taken out of the courtroom and up the stairs to the second floor. Jury deliberations shall be completed in the large room at the end of the hall on the second floor. If any juror is unable to or has difficulty traversing the stairs, the courtroom will become in effect the jury holding room. The court and parties, including the defendant, will meet upstairs each morning with the court reporter to address any matters that need to be heard outside of the presence of the jury. For every break or recess, the parties and the court will exit the courtroom and no persons other than the jury and clerk will be permitted to remain in the courtroom. When the jury undertakes their deliberations, they will use the courtroom for their deliberations. No persons will be permitted in or out of the courtroom during those deliberations and a bailiff shall be stationed at the front door of the Dee's building to ensure that no person enters the building.
33. Defense counsel shall AT ALL TIMES accompany the defendant in and out of the courtroom to avoid any appearance that the defendant is being led in or out by the bailiffs.
34. No members of the general public shall be permitted in the courtroom during any portion of the trial. Pender County has made arrangements to live stream the proceedings through the county's You Tube® page. Unless otherwise ordered by the Court, all witnesses shall be sequestered outside of the courtroom and shall exit the courtroom once their testimony is complete. This rule shall not apply to the alleged victim or the lead investigating officer in any criminal trial.
35. Any violation of these rules shall subject the offending party to contempt of court which may be punishable by imprisonment for up to thirty (30) days and a fine of up to \$500.00.
36. These rules have been reviewed and approved by the Chief District Court Judge, the Sheriff, the Clerk of Superior Court, the director of the Health Department, and district attorney and a representative of the criminal defense bar.

SO ORDERED this 9 day of October, 2020.



Phyllis M. Gorham

Senior Resident Superior Court Judge