

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 16 2020

Shel A. Johnson, Esq.
Clerk

* * * *

RE:

STATE OF SOUTH DAKOTA)
COUNTY OF BROWN) SS

IN CIRCUIT COURT
FIFTH JUDICIAL CIRCUIT

IN RE THE ADMINISTRATION OF)
THE FIFTH JUDICIAL CIRCUIT)
)
)
)
)
)

ORDER APPROVING

5TH JUDICIAL CIRCUIT
ADMINISTRATIVE ORDER REGARDING
COVID-19 EMERGENCY DECLARATION

By the Court's Order of March 13, 2020, Declaring Judicial
Emergency COVID-19 Disease the South Dakota Supreme Court declared the
existence of a judicial emergency pursuant to SDCL 16-3- 11 through 15
and pursuant to the Court's authority to administer justice and to
ensure the safety of court personnel, litigants and the public, it is
ORDERED that the attached Fifth Judicial Circuit Administrative Order
Regarding Covid-19 Emergency Declaration be and it is hereby
approved in its entirety.

IT IS FURTHER ORDERED that this order shall remain in effect
until further order of the Court.

DATED at Pierre, South Dakota this 16th day of March, 2020.

BY THE COURT:

David Gilbertson

David Gilbertson, Chief Justice

ATTEST:

[Signature]
Clerk of the Supreme Court
(SEAL)

Fifth Judicial Circuit Administrative Order regarding Covid-19 emergency declaration.

In recognition of the nationwide attempts to slow the spread of the Covid-19 virus, and in response to the South Dakota Supreme Court's order declaring a judicial emergency, the Fifth Judicial Circuit will implement the following policies until further order.

Jury Trials - By their very nature, jury trials cause the congregation of significant numbers of citizens. This may pose a threat of exposure to Covid-19. As such, it should be avoided where possible. Accordingly, all civil jury trials scheduled between now and May 15 are continued and will be rescheduled. Similarly, all criminal jury trials involving non-custodial defendants scheduled before May 15 will be continued unless the case presents unavoidable speedy-trial issues. In that circumstance, the circuit judge presiding over that case shall exercise appropriate discretion concerning the continuation of that case.

Potential Jurors - Any juror who identifies themselves as symptomatic, is self-quarantined, is a member of an at-risk population, or has another identifiable Covid-19 issue shall be excused from jury duty. The clerks of court for each county in the circuit are expressly authorized to make decisions regarding the exercise of this policy on their discretion and based upon information provided to them by prospective jurors, including mailed letters, emailed messages, and telephone conversations.

In-custody defendants - The judge presiding over any county within the circuit shall review the status of each defendant currently held in custody. The purpose of this review is to re-assess the custodial status of the defendant in light of the present situation. Prosecutors and defense counsel are requested to assist this process by exploring release options or expediting the resolution of cases. Any defendants that remain in custody after this review shall be given scheduling priority on the calendars of all judges. Quarantined custodial defendants will appear by video conferencing where possible.

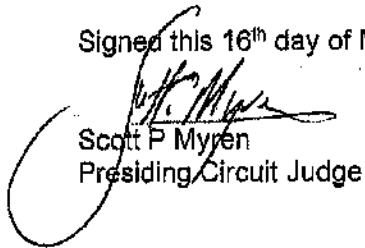
Court Services - Extraordinary consideration shall be given before the issuance of any detainer or the request for an arrest warrant. The Chief Court Services Officer must authorize any such detainer or warrant request before it is issued. Such detention shall only be used when determined to be necessary to ensure public safety. Court service officers, with the assent of the Chief Court Services Officer, are authorized to deviate from incarceration sanctions listed on the sanction grid during this public health crisis. Similarly, the Chief Court Service Officer is authorized to modify the probation in-person contact requirements as deemed necessary to mitigate potential exposure to Covid-19, while maintaining public safety. Any such modification shall be approved by the Presiding Judge of the Fifth Circuit before implementation.

Continuation of cases - As usual, judicial officers of the circuit shall use their discretion to continue case of all types as they deem appropriate. The clerks of court are explicitly authorized to grant continuance on non-felony criminal matters on their discretion. They may accept information regarding such requests by mail, email, telephonically, or by in-person request. Due consideration of the public health crises shall be given whenever a party fails to appear for court without notice. Whenever feasible, the matter will be continued, and notice of continuance will be provided by the clerk in a manner most consistent with achieving notice while avoiding unnecessary risks of exposure to Covid-19. Judges will exercise similar consideration regarding civil matters and felony criminal matters.

Specialty Courts - The judicial officer presiding over any specialty court is authorized to modify the operation of that court in any manner determined to be necessary to minimize public health concerns while still maintaining public safety. Any such alterations shall be coordinated with the state official in charge of specialty courts.

Effective until repealed.

Signed this 16th day of March 2020.



Scott P Myren
Presiding Circuit Judge