

IN THE DISTRICT COURT FOR
THE FIFTH JUDICIAL DISTRICT OF WYOMING

GENERAL ORDER)

FOR THE DISTRICT COURT)

FOR BIG HORN, HOT SPRINGS, PARK,)

AND WASHAKIE COUNTIES)

2020-04

GENERAL ORDER VACATING ALL JURY TRIALS
SET TO BEGIN BEFORE APRIL 30, 2020

THIS MATTER came upon the Court's own motion. The President of the United States has declared a national emergency. The Governor of the State of Wyoming has declared a statewide emergency. The Wyoming Supreme Court implemented the Judicial Branch: Respiratory Disease Pandemic Plan. All of these actions are in response to the worldwide pandemic involving COVID-19, a corona virus that has killed thousands.

Every school district in our judicial district has been affected by the outbreak of COVID-19. Thus, many parents (and potential jurors) within the Fifth Judicial District are struggling to find childcare. On March 19, 2020, the District Court received a request by the Office of the Wyoming State Public Defender that the Court suspend all jury trials scheduled to begin during March and April, 2020.

The Centers for Disease Control (CDC) have implemented best practices to avoid further transmission of COVID-19. Those best practices include, but are not limited to:

- Minimizing/Eliminating all person-to-person contact
- Maintaining a minimum distance of six (6) feet between persons
- Avoiding gatherings of more than 50 people
- Practicing proper hygiene (washing hands, cover when coughing, disinfecting).

While the trial courts of Wyoming must remain open, they must take into consideration the global health crisis caused by COVID-19 when determining the manner in which hearings will be

conducted and scheduled. Under Wyo. Const. Art. 1, §8, Wyoming courts are generally open to the public. “[A]ccess to court proceedings should be limited only in exceptional circumstances.” *Williams v. Stafford*, 589 P.2d 322,325 (Wyo. 1979), abrogated on other grounds by *Vaughn v. State*, 962 P.2d 149 (Wyo. 1998).

The Court concludes that the current global pandemic constitutes extraordinary circumstances that justifies cancelling all jury trials until April 30, 2020. Consistent with the request from the State Public Defender’s Office, the Court concludes that scheduling jury trials during this time is contrary to public health.

First, it would be directly contrary to public health to assemble a jury panel. In most cases, the Court calls about 50-60 potential jurors for *voir dire*. This would be directly contrary to the CDC’s guidance to avoid public gatherings of more than 50 people. Calling in a panel for *voir dire* would turn the courthouses into giant hotspots for the transmission of COVID-19.

Second, empaneling a jury would be contrary to the CDC’s best practices by forcing persons to remain within six feet of one another for substantial periods of time. None of the jury boxes available in our courtrooms are large enough to allow sufficient space between members of the jury. Unlike other hearings where the Court can have participants and attorneys spread out to facilitate proper social distancing, the Court cannot spread a jury over the entire courtroom. A criminal defendant has a right that all members of the jury see and hear all the evidence presented. With different vantage points from around the courtroom, the Court simply cannot ensure that all evidence can be seen and heard by all the jurors.


Finally, The District Courts cannot ensure that high-risk persons and persons exhibiting symptoms of COVID-19 will not intermingle during jury selection and at trial. The median incubation period for COVID-19 is five days. 97.5% of people who will develop symptoms will do so within 11 days. Moreover, some persons infected may not exhibit *any* symptoms. Thus, it is entirely possible, if not likely, that a venire pool may have what appears to be healthy persons who may actually be infected with COVID-19. As noted by the Public Defender’s Office, this circumstance would make it unlikely that jurors could concentrate on the trial when worried whether they are seated next to someone who may have a potentially deadly disease.

IT IS THEREFORE ORDERED that no new jury trial will be set to begin prior to April 30, 2020 and that all jury trials scheduled to begin prior to April 30, 2020, are hereby **VACATED**;


IT IS FURTHER ORDERED that the Court will conduct additional hearings in the future to reschedule all matters in accordance with the requirements of the Constitutions of the United States of America and Wyoming; Wyo. Stat. Ann. §§ 14-3-426(b), 14-6-226(b), and 14-6-426(b), and; Wyo. R. Crim. P. 48; Priority will be given to time sensitive trials including juvenile and criminal trials in which speedy trials may be at issue.

FINALLY, IT IS ORDERED that this Order shall remain in effect until April 30, 2020, unless otherwise extended by the Court.

BY THE COURT this 24th day of March, 2020.



Honorable Bill Simpson
DISTRICT COURT JUDGE
FIFTH JUDICIAL DISTRICT



Honorable Bobbi Overfield
DISTRICT COURT JUDGE
FIFTH JUDICIAL DISTRICT