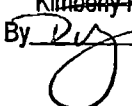


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF BUTTE
EMERGENCY ORDER OF THE PRESIDING JUDGE
AFFECTING COURT OPERATIONS
FOR BUTTE COUNTY SUPERIOR COURTHOUSE

(BCCH)
I.
FINDINGS

F Superior Court of California
I County of Butte
L **DEC 28 2020**
E Kimberly Flener, Clerk
D By  Deputy

F
I
L
E
D

A. Court Operations During the State of Emergency

The public health crisis emanating from the coronavirus and COVID-19 remains a persistent threat at a local, state, and national level. Early in the crisis, this court issued orders restricting access to the courthouse and limiting calendars as mitigation measures to balance the need for safety with the obligation to provide access to justice as timely as possible, focusing on at all times the critical core functions of the court and needs of court users. Those orders have either contracted or expanded court access, services, and court calendars, in response to the prevalence and spread of the coronavirus and COVID-19 in Butte County. To make those determinations, the Presiding Judge has relied on county, state, and national public health resources.

The Presiding Judge did then, and continues now, to rely on and take judicial notice of information, guidance and Orders found on the websites of: the Office of the Governor of the State of California, the California Department of Public Health (CDPH), Covid19.ca.gov, Covidactnow.org, the Butte County Department of Public Health (BCPH), the Center for Disease Control (CDC), as well as information provided by the Butte County Sheriff, the District Attorney and the Director of the Public Defenders Consortium, and Chiefs of local law enforcement and the Probation Department on all aspects of rates or incidents of infection involving the coronavirus and COVID-19 as the information impacts court operations and courthouse safety.

Herein, this court also adopts and incorporates the findings of this court of the California Judicial Council, and of the Chief Justice of the California Supreme Court, issued previously in response to the public health crisis emanating from the coronavirus and COVID-19.

1 **B. Particular Orders**

2 On November 19, 2020, the Governor of the state of California placed Butte County
3 on the Purple Tier (most restrictive), a designation demonstrating wide spread of the
4 coronavirus and COVID-19. Since that date, cases have continued to increase steadily within
5 the county and throughout the state. During this time frame and for the weeks after, the rate of
6 infection has become so widespread that nearly all California counties were placed into the
7 Purple Tier.

8 On December 3, 2020, in response to the fast moving spread of the virus and the
9 resulting unavailability of ICU beds in hospitals, the Governor issued a Stay at Home Order
10 through the California Department of Public Health. Counties were placed in regions such that
11 if a region had less than 15% ICU capacity, the Stay at Home Order became effective for a
12 minimum of three weeks. Butte County was placed in the region identified as the Greater
13 Sacramento Region.

14 On December 6, 2020, Butte County became subject to the Stay at Home Order when
15 ICU capacity fell below 15% for the Greater Sacramento Region. As critical infrastructure,
16 both courthouses remained open with mitigation measures in place. The Butte Superior Court
17 sought and received relief from the Chair of the Judicial Council, the Chief Justice of the
18 California Supreme Court, for authority to hold no jury trials between December 14, 2020 and
19 January 8, 2021, in response to the wide spread of the coronavirus in Butte County and the
20 danger of infection within the courthouses.

21 **C. Current County Numbers**

22 Butte County Public Health has reported an increase daily of COVID-19 cases, as well
23 as an increase in the number of hospitalizations and deaths. As of December 24, 2020, and for
24 several weeks prior, the average number of positive COVID-19 cases within Butte County
25 were reported as:

26 11/24/2020 through 11/30/2020 an average of 60 cases per day

27 12/1/2020 through 12/7/2020 an average of 68 cases per day

28 12/8/2020 through 12/14/2020 an average of 128 cases per day

12/15/2020 through 12/21/2020 an average of 110 cases per day

1 **D. Particular Event**

2 On December 22, 2020, a Butte County Sheriff's Deputy assigned to the Butte Superior
3 Courthouse in Oroville (BCCH) reported testing positive for COVID-19. This Deputy was
4 assigned to, and did work, at BCCH the week prior. The nature of the Deputy's assignments
5 was such that all Deputies at BCCH and many staff at BCCH were considered as having been
6 exposed to the coronavirus given the proximity, duration, and timing of the onset of symptoms.
7 When this information was learned, the Presiding Judge of the Butte Superior Court ordered
8 all Criminal Division calendars for that day be halted. All Deputies then left the courthouse
9 due to the exposure.

10 This exposure left BCCH without the resources to have the Criminal Division calendars
11 staffed by the Sheriff's Office as the exposed Deputies could not test and receive results in a
12 reliably timely way due to the overwhelming demand for testing in the community. The
13 Deputies exposed to the COVID positive Deputy would not be outside of the incubation period
14 until Tuesday December 29, 2020. As the health of the Deputies who were impacted was
15 uncertain, and resources were unavailable to staff the courthouse safely, and the extent or
16 spread of the coronavirus in the courthouse unknown, the Presiding Judge found good cause
17 to vacate the Criminal Division calendars for the remainder of the week as it would be unsafe
18 for the staff or public to have a Deputy who had a known exposure to the coronavirus return
19 to work during the incubation period and without a reliable and timely negative test.

19 **E. Butte County Jail**

20 The presence of COVID-19 in the Butte County jail has had an ongoing impact on the
21 court's operations in the Butte Superior Court. As with prior Orders on court operations
22 affecting the Criminal Division, the Presiding Judge considered the rate of infection and rate
23 of spread in the jail.

24 As of December 22, 2020, positive COVID-19 cases in the jail had been increasing by
25 10 to 20 every day. As of December 22, 2020, 77 positive cases in the Butte County jail had
26 been reported on the Butte County Public Health website. Additionally, it was reported to the
27 Presiding Judge that at least 4 housing units in the jail were on quarantine due to COVID-19.
28

1 **F. Preliminary Hearing**

2 This court finds that the matter of People v. Anthony Beasley 20CF05492 was on for
3 Preliminary Hearing on December 23, 2020. The minutes reflect the defendant was then in
4 custody but not present when the case was called as the defendant was subject to quarantine in
5 the Butte County jail due to the presence of COVID-19 in the housing unit. The court further
6 finds there is no known date on which the defendant would be released from quarantine as the
7 quarantine applies to the whole housing unit. The Sheriff's Office reports that the protocol is
8 that quarantine for a housing unit is not lifted until each inmate housed therein tests negative
9 for COVID-19, which makes the date unknown for a quarantine to end.

10 On December 23, 2020 the Preliminary Hearing was continued to December 30, 2020.
11 The defendant has not waived time and would then be beyond 30 days for the Preliminary
12 Hearing. This court finds good cause to continue the Preliminary Hearing on December 23,
13 2020 based on the status of the defendant as subject to quarantine and for the reasons stated
14 herein resulting in the Criminal Division calendars being vacated by Order of the Presiding
15 Judge given the particular event referenced in item C, above.

16 **II.**
17 **AUTHORITY**

18 The Presiding Judge exercises the authority for the Orders made herein and to render
19 safe the BCCCH courthouse and the occupants therein under California Rule of Court, Rule
20 10.603. Furthermore, findings of good cause to continue matters affected by the Order of the
21 Presiding Judge to vacate Criminal Division proceedings from Noon on December 23, 2020
22 through December 28, 2020, subject to the exception listed below, are based on the
23 circumstances described herein and those of which judicial notice was taken. A good cause
24 finding based on the local and immediate impact of a pandemic or health crisis, of which
25 COVID-19 is included, is supported in Stanley v. Superior Court (2020) 50 Cal. App. 5th 164,
26 wherein the Stanley court confirmed that a health crisis has long been held to be good cause to
27 continue a pre-adjudication proceeding or jury trial beyond a statutory deadline where there
28 has been access to the court. The extension of statutory time for arraignment is supported by
the authority of the Chief Justice of the California Supreme Court, granted on December 24,
2020, for arraignments that would have occurred on December 23, 2020 through December
28, 2020, inclusive. This extension authority was implemented through a separate Order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

ORDER

For the reasons stated herein, and for the protection of court staff, court users, justice partners, judicial officers, and the public, the Presiding Judge does find good cause to vacate Criminal Division calendars starting Wednesday December 23, 2020 at Noon through Monday December 28, 2020, with the exception that the Court will conduct a video arraignment calendar on Monday December 28, 2020 at 3:00 p.m. at the Chico North County Courthouse (NCCH) 1775 Concord Avenue, Chico, California, of only those defendants for whom time for arraignment expires that date, and would otherwise have expired on Wednesday December 23, 2020 without the extension of time granted by the Chief Justice. Defendants who are then still in custody will appear by video from the Butte County jail. Members of the public, or counsel, may appear in person on the arraignment calendar at the North County Courthouse for the December 28, 2020 3:00 p.m. arraignments.

The Orders recited herein are reflective of the Orders and direction of the Presiding Judge on December 23, 2020. This written Order is Nunc Pro Tunc to December 23, 2020.

SO ORDERED.

Date: 12/28/2020

Clare Keithley
Hon. Clare Keithley
Presiding Judge