



Sixth Judicial District - State of Arkansas

WILEY A. BRANTON, JR
CIRCUIT JUDGE
PULASKI AND PERRY COUNTIES

EIGHTH DIVISION

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MEMO TO: Eighth Division Staff / Sixth Judicial District / State of Arkansas
Lawyers and Litigants appearing before the Eight Division during the Covid 19 Health
Emergency

FROM: Circuit Judge Wiley Branton, Jr. / Eighth Division Circuit Court *WABR*

SUBJECT: Work Protocol During Covid 19 Emergency

DATE: March 20, 2020

As you are all aware, we are continuing to deal with the Covid 19 worldwide **pandemic**. As of this date, we have received various directives from both County Judge Barry Hyde as well as Chief Justice Dan Kemp of the Arkansas Supreme Court concerning both closing the courthouse to the general public and limiting the types of hearings that will be conducted during this health emergency. I do not know how long this health emergency will last, but I am fairly certain that things will get much worse before they get better. I also anticipate receiving further directives from various state and local officials, and perhaps even the federal government which will affect the timing of when we can actually resume our normal operations. In fact, as I was preparing this memo yesterday, I received word that Governor Hutchinson has now announced the closure of all public schools within the State through April 17, 2020.

I have no clue as to when we will resume normal court operations, but it would not surprise me if emergency operating procedures were extended for the next several weeks or longer. We will of course comply with whatever lawful directives we receive.

In my humble opinion, the best practice nationwide would be for everyone to just stay home, shelter in place, avoid contact with other people, practice good hygiene as recommended, and hope that an effective vaccine or cure for Covid 19 is developed as soon as possible. But the foregoing proposal is not a practical solution for everyone because there is still a need for various essential services to continue which we all depend upon to live our daily lives in relative health and safety. As a nation, we must figure out a way to carry on with our essential and necessary functions and services while adhering to the best known safe and health practices.

Given the constantly evolving situation with Covid 19, and so that people can make appropriate plans, the Eighth Division will be operating on an emergency basis only through at least Friday, April 17, 2020. Until we get the proper go ahead to resume normal court operations, we will continue to only hear emergency matters on Monday and Thursday morning of each week during this Covid 19 emergency. Emergency matters shall include detention hearings, DHS probable cause hearings, DHS adjudications that must be heard within statutory time limits, and such other matters that may be

designated as an emergency or that must be heard within a certain time limit. If an attorney or litigant has an emergency matter which he/she thinks must be heard as an emergency matter, please contact the court's law clerk, Ms. Heather Miles at 501-340-6668, or trial court assistant, Ms. Cycle Blackmon at 501-340-6664, to see how your matter will be handled/scheduled.

Until further notice, the Eighth Division will only hear emergency matters on Monday and Thursday of each week starting at 8:15 a.m. Delinquency matters will be heard first followed by dependency/neglect cases, or any other emergency matters that must be heard. When the Eighth Division is scheduled to hear mental health cases at the Arkansas State Hospital, those cases will go forward as currently scheduled. All truancy cases scheduled for hearing for the months of March, April and May 2020 will be continued to a future date beyond June 1, 2020 on a specific date as yet to be determined.

Safety Protocol for Court Hearings During Covid 19 Health Emergency:

1. Only matters that have been designated as an emergency which require an actual hearing will be heard. The court will continue to make rulings on various other matters that do not require an actual hearing.
2. The court will make every reasonable effort to make use of any readily available technology to allow testimony via telephone or video conferencing.
3. Only necessary persons shall be allowed into the courtroom during each hearing.
4. **Social distancing practices shall be implemented in the courtroom and courthouse as follows:**
(1) Counsel shall sit at counsel table separated by at least one chair from the person next to him/her. (2) All other parties or witnesses shall be seated in the benches in the back of the courtroom at an appropriate distance from other persons present in the courtroom. (3) All witnesses shall testify from the podium and not the witness stand. (4) Since counsel will not be seated next to their respective client, unless they choose otherwise, counsel will be given free reign to move about the courtroom to confer with their respective client if need be. (5) In order to keep too many people from congregating in the waiting room or the courtroom, witnesses will be required to remain in either the waiting area (if not crowded) or outside of the courthouse; and they will be duly called into the courtroom when their testimony is needed. The court's bailiff and security staff will implement these distancing practices.
5. If feasible and practical, the court may permit lawyers to appear by telephone or video conferencing, but as recent experience has shown, this may not always be feasible, practical, or "optically" appropriate.
6. The court will allow witnesses to testify via telephone or video conferencing if requested and agreed to by the parties, and if it is possible to do so.

Directive for Eighth Division Staff:

In an effort to reduce the numbers of employees present in the work place at one time, and hopefully slow the spread of Covid 19, I will direct that half of our staff work from home and use their telephone and computers to work as best they can. Mr. Sanders will coordinate the scheduling of the probation officers as well as conduct a weekly telephone/video conference with probation staff to report on their work and contacts with juveniles and families under the court's supervision. Probation staff are expected to return telephone calls, and to make affirmative efforts to contact the families that they are working with on a weekly basis. The court will still consider pick up requests for juveniles who have

reportedly violated one or more of their conditions of release, or terms of probation, but the court will only issue such pick up orders where the subject juvenile appears to pose an imminent risk of serious harm to themselves, or others, or they have runaway from home.

Safety Protocol for Everyone:

Maintain appropriate social distancing.

If you are sick, stay at home and contact the court or your attorney to let us know what is going on. If your presence or testimony in court is needed, we may be able to accommodate you by telephone or video conferencing.

Wash your hands often and in the correct manner.

Cover your mouth if you cough and then wash your hands.

If you have a cold, the flu, a fever, persistent cough, or Covid 19, please do not come to court.

Safety Protocol for DHS Court Ordered Visitation:

When children are brought into foster care or placed outside of their regular home, this court understands the importance of both court ordered and statutorily mandated visitation between siblings and the custodians from whom custody was removed. However, we are now in a nationwide health emergency caused by Covid 19. In light of this present and ongoing emergency, the court authorizes all court ordered visitation to take place by telephone, video conferencing, or some other form of appropriate social media unless there is mutual agreement that in person visitation shall continue. **The potential spread of Covid 19 and the risk of harm that Covid 19 presents to everyone mandates that we modify how visitation is carried out for everyone's health and safety. If anyone objects to modifying the manner in which court ordered or statutorily mandated visitation is carried out, please feel free to file an emergency motion and the court is willing to consider the merits of any such motion.** The court does encourage ADHS, the AALs, and parent counsel to formulate a plan whereby visitation may continue via telephone, video conferencing, or social media while minimizing the risk of spread of Covid 19.

Rumors and Wild Speculation

During this now somewhat unprecedented situation we are now in with respect to Covid 19, it is not surprising that unfounded rumors will be circulated and that wild speculation will occur. That practice is not helpful to anyone and should cease immediately. If someone gets sick, that does not mean that person automatically has Covid 19. This is still the cold, flu, and now allergy season. Please do not spread rumors or speculate as to why someone may be ill. If someone who has been present in the courthouse tests positive for Covid 19, and assuming that information is made available to us, we will of course let you know. But only a properly approved and administered test can confirm the presence of Covid 19.

Unfortunately, we cannot just completely close down at this time, but we can take steps to practice social distancing, good personal hygiene, and reduce the need for large groups of people to gather together. Hopefully, these and other recommended practices will slow the spread of Covid 19 and reduce the number of persons infected until medical science can come to rescue with an effective vaccine and/or cure.

Copies To:

The Honorable Barry Hyde, Pulaski County Executive

Mr. Mike Hutchins, Pulaski County Comptroller

The Honorable Van Smith, Circuit Judge and Chief Administrative Judge

The Honorable Patricia James, Circuit Judge

The Honorable Joyce Williams Warren, Circuit Judge

The Honorable Larry Jegley, Pulaski County Prosecutor

The Public Defender Commission

The Honorable Micha Martin, Arkansas Department of Human Services

Attorneys *Ad Litem* who appear in the Eighth Division

Parent Counsel who appear in the Eighth Division

Truancy Counsel who appear in the Eighth Division