FILED
Cathy S. Gatson
Kanawha Co. Circuit
APR - 7 2020

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

RE: ADMINISTRATIVE ORDER CONTINUING GENERALLY PRELIMINARY HEARINGS FOR DEFENDANTS NOT IN CUSTODY

WHEREAS, the Supreme Court of Appeals of West Virginia, in an Administrative Order entered March 22, 2020, declared the COVID-19 pandemic "an unprecedented health crisis" necessitating the declaration of a judicial emergency throughout the State of West Virginia, and

WHEREAS, the Supreme Court of Appeals of West Virginia entered a subsequent April 3, 2020, Administrative Order extending the judicial emergency through May 1, 2020; and

WHEREAS, the Supreme Court of Appeals of West Virginia, in the aforesaid administrative orders, restricted the conducting of hearings to "very limited emergency proceedings that are required to protect the immediate health or safety of a party or the community," and

WHEREAS, on March 23, 2020, Governor Jim Justice announced a "stay at home" order for all non-essential businesses and functions, effective 8:00 p.m. on March 24, 2020; and

WHEREAS, it poses a risk to the safety to all individuals who must appear for court, including criminal defendants not in custody presently awaiting a felony preliminary hearing, their counsel, counsel for the State, witnesses, and court personnel who are required for the general operation of court, to appear in person in court; and

WHEREAS, Rule 5(c) of the West Virginia Rules of Criminal Procedure provides that criminal defendants not in custody who are charged with a felony crime are entitled to a preliminary hearing no later than twenty (20) days after their initial appearance; and

WHEREAS, Rule 5(c) of the West Virginia Rules of Criminal Procedure provides, in pertinent part, that absent the consent of an individual defendant awaiting a preliminary hearing,

the "time limits may be extended by a judge of the circuit court only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice."

WHEREAS, the ongoing COVID-19 pandemic is an ongoing public health crisis that places the health of all citizens at risk and said risk is exacerbated by requiring multiple individuals to personally appear in court, and

WHEREAS, unlike incarcerated defendants, it is logistically difficult, if not impossible, to make the necessary arrangements to have defendants not in custody appear remotely for hearings; and

WHEREAS, this Court previously entered a March, 23, 2020 Administrative Order continuing generally all felony preliminary hearings for defendants no in custody;

THEREFORE, the undersigned Chief Judge of the Thirteenth Judicial Circuit of West Virginia CONCLUDES that the COVID-19 pandemic continues to constitute an extraordinary circumstance which necessitates the delay of felony preliminary hearings for defendants not in custody, and that said delay is indispensable and in the interests of justice.

THEREFORE, it is accordingly ORDERED that all felony preliminary hearings for defendants not in custody shall be continued generally until after May 1, 2020, and that said hearings shall be conducted as soon as practicable thereafter, pending further administrative order of this Court or the Supreme Court of Appeals of West Virginia.

ENTERED:

Charles E. King 4/7/2020
Charles E. King
Chief Judge

Approved by:

Don Morris
First Assistant Prosecuting Attorney

Ronni Sheets
Chief Public Defender