

MAR 18 2020

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO

By 

ORDER RE: TEMPORARY SUSPENSION  
OF CRIMINAL JURY TRIALS IN THE  
FIFTH DISTRICT

ADMINISTRATIVE ORDER  
20-02

Eric J. Wildman, Administrative District Judge of the Fifth Judicial District hereby finds and orders as following:

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation declaring a national emergency in response to the coronavirus disease outbreak. On March 16, 2020, President Trump issued coronavirus guidelines for America, which among other things, advises to *avoid gatherings in groups of more than 10 people*.

WHEREAS, on March 13, 2020, Governor Brad Little entered a Proclamation and declared a state of emergency in response to the coronavirus emergency in the State of Idaho. On March 18, 2020, Governor Little *adopted the national guidelines*.

WHEREAS, on March 13, 2020, the Idaho Supreme Court issued an order in response to the coronavirus emergency establishing measures for courthouse operations effective March 16, to Friday, April 10, 2020.

WHEREAS, the CDC (Center for Disease Control and Prevention) *advises avoiding close contact within about six (6) feet of one another*.

WHEREAS, confirmed positive cases for the coronavirus already exist within counties of the Fifth Judicial District.

WHEREAS, given the physical space limitations of the courthouses in the Fifth Judicial District, compliance with the above stated protocols is not possible when performing the processes necessary for conducting a jury trial and would place the jury pool, jurors, parties, witnesses, courthouse personnel and the defendant at great health and safety risk.

WHEREAS, the prospective juror pool is severely limited due to the need to screen out those with high-risk profiles and those presenting with symptoms or who may have been potentially exposed, the need to honor excusal requests by those concerned about participating contrary to established state and national guidelines under the circumstances, and the complications created by school closures throughout the district.

WHEREAS, under the circumstances, *including but not limited to restricting groups to less than ten (10) people*, it would be irresponsible and futile to summons prospective jurors to report for jury duty in light of the current state of emergency and protocols in place to protect the health and safety of the public as well as all participants necessary to conduct a jury trial.

WHEREAS, in criminal procedures defendants are entitled to a speedy trial by (1) The Sixth Amendment to the Constitution of the United States. (2) Article 1, Section 13, of the Idaho Constitution and Idaho Code § 19-3501. Idaho Code §19-3501 requires a court to dismiss a case if a defendant is not brought to trial within certain six (6) months timeframe or unless good cause to the contrary is shown.

WHEREAS, on March 18, 2020, the Idaho Supreme Court adopted Idaho Criminal Rule 28 which sets forth factors a court should consider in determining whether good cause exists when exercising discretion in ruling in a motion to continue a trial. These factors include:

1. the length of the delay beyond the statutory timeframe;
2. whether there have been prior continuances and the reasons therefore;
3. the reason(s) for the current delay, including but not limited to: whether the delay was necessary to safeguard the health or safety of the parties, jurors, attorneys, witnesses, court staff, or the public, and whether the delay was necessitated by the declaration of an emergency by the President of the United States or the Governor of the state of Idaho;
4. whether and when the accused requested compliance with the statutory trial time requirements;
5. the prejudice, if any, to the accused of permitting the prosecution to proceed beyond the statutory trial time requirements; and,
6. any other factor of the court deems relevant.

NOW THEREFORE, in the exercise of discretion and for good cause, based on the forgoing and the enumerated factors in the newly issued I.C.R. 28, it is hereby ordered that jury trials scheduled to take place before April 10, 2020, in the Fifth Judicial District shall be temporarily suspended and reset for a date past April 10, 2020, upon further order of the presiding judge of the affected case.

IT IS FURTHER ORDERED, that judges within the Fifth Judicial District shall review their dockets and promptly notify counsel of record in affected cases regarding the existence of this administrative order of the need to reset the trial date.

IT IS FURTHER ORDERED, that the jury commissioner in each of the respective counties of the Fifth Judicial District shall take action necessary to effectuate this order and notify jurors that have already been summoned to not appear during the period this order is in effect.

IT IS FURTHER ORDERED, that judges carrying out the directive of this order shall independently review the cases assigned to them which are affected by this order and timely schedule a hearing to reset the trial for a date as soon as reasonably practicable under the circumstances then existing.

IT IS FURTHER ORDERED, in the absence of a waiver of speedy trial, if a defendant elects to file a motion to dismiss based on the failure to provide a speedy trial, the presiding judge shall issue a separate order applying the factors applying forth in I.C.R. 28 in addition to citing to this Administrative Order.

IT IS FURTHER ORDERED

Dated this 18th day of March 2020.



Eric J. Wildman  
Administrative District Judge

cc: District Judges of the Fifth Judicial District  
Magistrate Judges of the Fifth Judicial District  
Elected Clerks of the Fifth Judicial District  
Jury Commissioners of the Fifth Judicial District  
Sara Thomas, Administrative Director of the Courts  
Roger S. Burdick, Chief Justice of the Idaho Supreme Court

# In the Supreme Court of the State of Idaho

IN RE: ADOPTION OF IDAHO  
CRIMINAL RULE 28

ORDER

The Court having received a recommendation to amend the Idaho Criminal Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Criminal Rules be, and are hereby, amended as follows:

1. That a NEW Rule 28 be ADOPTED as follows:

**Idaho Criminal Rule 28. Determination of Good Cause Regarding Statutory Trial Time Requirements.**

When considering whether good cause exists in ruling on a motion to continue a trial or a request to dismiss which is based upon the time requirements set forth in section 19-3501, Idaho Code, in exercising its discretion, the court shall consider the following factors:

1. the length of the delay beyond the statutory timeframe;
2. whether there have been prior continuances and the reasons therefore;
3. the reason(s) for the current delay, including but not limited to: whether the delay was necessary to safeguard the health or safety of the parties, jurors, attorneys, witnesses, court staff, or the public, and whether the delay was necessitated by the declaration of an emergency by the President of the United States or the Governor of the State of Idaho;
4. whether and when the accused requested compliance with the statutory trial time requirements;
5. the prejudice, if any, to the accused of permitting the prosecution to proceed beyond the statutory trial time requirements; and,
6. any other factor the court deems relevant.

IT IS FURTHER ORDERED, that this order shall be effective March 18, 2020.

IT IS FURTHER ORDERED, that the addition of new Rule 28 is the only amendment and NO OTHER AMENDMENTS ARE INTENDED.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

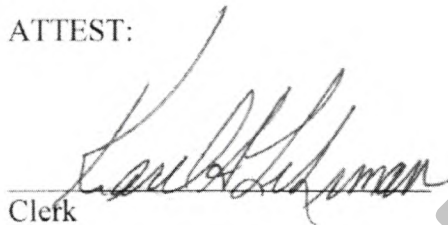
DATED this 18<sup>th</sup> day of March, 2020.

By Order of the Supreme Court



Roger S. Burdick, Chief Justice

ATTEST:



Clerk

SUPERSEDED