

CLARIFICATION OF REQUIREMENTS FOR REMOTE
HEARINGS IN BRANCH II OF THE SHAWANO-
MENOMINEE CIRCUIT COURT DURING THE COVID-19
PANDEMIC.

ORDER

FILED
SHAWANO COUNTY

MAY 11 2020

WHEREAS Governor Evers has declared a public health emergency for the State of Wisconsin in connection with the COVID-19 pandemic; and

WHEREAS the United States Centers for Disease Control has issued guidance related to the COVID-19 pandemic recommending, *inter alia*, that organizations develop and implement flexible attendance policies that allow employees to stay home when sick, to remain home to care for sick household members, or to work from home when possible; and

WHEREAS the Wisconsin Supreme Court has administrative and superintending authority over the courts and judicial system of this state and a duty to promote the efficient and effective operation of the state's judicial system, Wis. Const. Art. VII, § 3; *In re Kading*, 70 Wis. 2d 508, 519-20; 235N.W.2d 409 (1976); and

WHEREAS the Wisconsin Supreme Court has determined that, in light of the existing public health emergency and to protect the health of the public and the individuals who work for the courts of this state, it is necessary to limit temporarily the number of individuals who are physically present within the courts of this state and to temporarily modify certain procedures to ensure that the essential operations of the courts continue in an appropriate manner during the present public health emergency; and

WHEREAS on April 15, 2020, the Wisconsin Supreme Court Amended its March 22, 2020, order and extending the same for an indeterminate time; and

WHEREAS said March 22, 2020, order as amended by the April 15, 2020, order requires that all in-person proceedings are suspended with certain exceptions for critical matters if remote technology is not practicable or adequate to address those matters; and

WHEREAS, Shawano-Menominee Circuit Court Branch II finds it has workable audio visual capabilities and telephonic capabilities to conduct hearings; and

WHEREAS; essential hearings are to be conducted by remote technology unless not practicable or adequate to address certain hearings enumerated by the Wisconsin Supreme Court; and

WHEREAS, there appears to be confusion by private bar attorneys, publically employed attorneys, and district attorney as to what is meant by "remote technology;"

NOW THEREFORE, IT IS HEREBY ORDERED, that in conformity with the Supreme Court orders dated March 22, 2020, and April 15, 2020, that all in-person proceedings in Branch II are hereby suspended until further notice by this court.

The suspension of in-person proceedings is subject to the following exceptions if remote technology is not practicable or adequate to address these matter

- Jury trials, which were addressed by separate order of the Wisconsin Supreme Court, see *In Re the Matter of Jury Trials during the COVID-19 Pandemic*, issued March 22, 2020.

- Proceedings necessary to protect the constitutional rights of criminal defendants and juveniles.
- Proceedings involving in-custody defendants, who are not being held on any basis other than the case-at-bar, which will presumptively proceed as timely scheduled.
- Other exceptions approved by the Chief Judge of the Judicial District, the Chief Judge of the Court of Appeals, or the Chief Justice of the Wisconsin Supreme Court, for the respective proceeding, as applicable.

Any party may request a hearing to determine the mode and schedule for any proceeding, which hearing shall be held telephonically or by video conferencing, but all non-essential hearings are to be postponed or conducted remotely.

Remote hearing means attending a hearing by video conferencing or telephonically from a location not in the courtroom.

Only the judge, clerk, court reporter, and assigned court law enforcement officer shall be allowed in the Branch II courtroom during hearings or proceeding; the courtroom shall be open to the general public during hearings until such time as the Court broadcasts hearings live. All appearances by attorneys, defense attorneys, district attorneys, assistant district attorneys, corporation counsels, witnesses, child support personnel and victim witness personnel shall be by *remote technology* in conformity with the Wisconsin Supreme Court orders.

This order is effective forthwith; however this Court will allow attorneys, district attorneys, assistant district attorneys, and corporation counsels to appear in-person until May 13, at 8:00 a.m. so they can practically and adequately prepare for remote hearings technically.

Nothing in this order is intended to be in conflict with the March 22, 2020, and April 15, 2020, orders of the Wisconsin Supreme Court, orders of the Chief Justice of the Wisconsin Supreme Court, orders of the Chief Judge of the 9th Judicial District, or orders of the Chief Judge of the Court of Appeals.

This order shall be interpreted broadly to further the protection of the public, court staff, attorneys, prosecutors, government agencies appearing before the court, and judges from the risks associated with the COVID-19 virus.

This order is in effect until rescinded.

Dated this 11th Day of May, 2020

BY THE COURT

Wm. F. Kussel Jr.
Circuit Court Judge
Shawano-Menominee Counties, BR II