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FILED
2020 MAR 13
KING COUNTY
SUPERIOR COURT CLERK

CASE #: 20-0-12050-5 SEA

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY**

IN THE MATTER OF
THE RESPONSE BY
KING COUNTY SUPERIOR COURT
TO THE PUBLIC HEALTH
EMERGENCY IN WASHINGTON
STATE

NO. 20-0-12050-5

EMERGENCY ORDER #3

- (1) SUSPENDING JUROR
SUMMONS STARTING MARCH
16, 2020 THROUGH APRIL 24,
2020 FOR ALL CASE TYPES
- (2) CONTINUING ALL JURY
TRIALS FOR ALL CASE TYPES
THROUGH APRIL 24, 2020
- (3) RULING ON SPEEDY TRIAL
FOR ALL CRIMINAL CASES
- (4) ADDRESSING ONGOING JURY
TRIALS

This matter comes before the Court on the public health emergency in Washington State.

FINDINGS OF FACT BASED UPON THE PUBLIC RECORD

1. On February 29, 2020, Governor Jay Inslee declared a state of emergency due to the public health emergency posed by the coronavirus disease 2019 (COVID-19).

1 2. On March 11, 2020, Governor Jay Inslee issued another Proclamation and Order
2 banning gatherings of 250 or more as follows:

3 **PROCLAMATION BY THE GOVERNOR**
4 **AMENDING PROCLAMATIONS 20-05 AND 20-06**
5 **20-07**

6 **WHEREAS**, on February 29, 2020, I issued Proclamation 20-05,
7 proclaiming a State of Emergency for all counties throughout the state of
8 Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in
9 the United States and confirmed person-to-person spread of COVID-19 in
10 Washington State; and

11 **WHEREAS**, on March 10, 2020, as a result of significant risks from
12 COVID-19 to persons living in congregate care settings, I issued Proclamation
13 20-06 amending Proclamation 20-05 by prohibiting certain activities and
14 waiving and suspending specified laws and regulations; and

15 **WHEREAS**, COVID-19, a respiratory disease that spreads easily from
16 person to person and may result in serious illness or death, has been confirmed
17 in 9 counties of Washington State resulting in 24 deaths, with significant
18 community spread in King, Pierce, and Snohomish counties; and

19 **WHEREAS**, to reduce spread of COVID-19, the United States Centers
20 for Disease Control and Prevention and the Washington State Department of
21 Health (DOH) recommend implementation of community mitigation strategies
22 to increase containment of the virus, including cancellation of large gatherings
23 and social distancing in smaller gatherings; and

24 **WHEREAS**, implementation of limitations on large gatherings and use
25 of social distancing prevent initial exposure and secondary transmission to our
most vulnerable populations, and are especially important for people who are
over 60 years old and those with chronic health conditions due to the higher risk
of severe illness and death from COVID-19; and

WHEREAS, the worldwide outbreak of COVID-19 and the resulting
epidemic in Washington State continue to threaten the life and health of our
people as well as the economy of Washington State, and remains a public
disaster affecting life, health, property and the public peace; and

WHEREAS, the DOH continues to maintain a Public Health Incident
Management Team in coordination with the State Emergency Operations Center
and other supporting state agencies to manage the public health aspects of the
incident; and

WHEREAS, the Washington State Military Department Emergency
Management Division, through the State Emergency Operations Center,
continues coordinating resources across state government to support
the DOH and local health officials in alleviating the impacts to people, property,

1 and infrastructure, and continues coordinating with the DOH in assessing the
2 impacts and long-term effects of the incident on Washington State and its
3 people.

4 **NOW, THEREFORE**, I, Jay Inslee, Governor of the state of
5 Washington, as a result of the above-noted situation, and under Chapters 38.08,
6 38.52 and 43.06 RCW, do hereby proclaim that Proclamations 20-05
7 and 20-06 remain in effect and are amended to impose restrictions on large
8 gatherings in King, Pierce, and Snohomish counties as provided herein, and that
9 a State of Emergency continues to exist in all counties of Washington State. I
10 again direct that the plans and procedures of the *Washington State*
11 *Comprehensive Emergency Management Plan* be implemented throughout state
12 government. State agencies and departments are directed to continue utilizing
13 state resources and doing everything reasonably possible to support
14 implementation of the *Washington State Comprehensive Emergency*
15 *Management Plan* and to assist affected political subdivisions in an effort to
16 respond to and recover from the COVID-19 epidemic. As a result of this event,
17 State to include the National Guard and the State Guard, or such part thereof as
18 may be necessary in the opinion of The Adjutant General to address the
19 circumstances described above, to perform such duties as directed by competent
20 authority of the Washington State Military Department in addressing the
21 outbreak. Additionally, I continue to direct the DOH, the Washington State
22 Military Department Emergency Management Division, and other agencies to
23 identify and provide appropriate personnel for conducting necessary and
24 ongoing incident related assessments.

25 **FURTHERMORE**, based on the above situation and under the
provisions of RCW 43.06.220(1)(b) and RCW 43.06.220(1)(h), to help preserve
and maintain life, health, property or the public peace, I hereby prohibit the
following activities in King, Pierce and Snohomish counties related to social,
spiritual, and recreational gatherings, which restrictions shall remain in effect
until midnight on March 31, 2020, unless extended beyond that date: Gatherings
of 250 people or more for social, spiritual and recreational activities including,
but not limited to, community, civic, public, leisure, faith-based, or sporting
events; parades; concerts; festivals; conventions; fundraisers; and similar
activities. Violators of this of this order may be subject to criminal penalties
pursuant to RCW 43.06.220(5).

Signed and sealed with the official seal of the state of Washington on this 11th
day of March, A.D., Two Thousand and Twenty at Olympia, Washington.

3. On March 11, 2020, King County Public Health Local Health Officer, Dr. Duchin
issued the following Order banning groups of smaller than 250 unless certain steps can be taken:

1 LOCAL HEALTH OFFICER ORDER

2 **Whereas** on February 29, 2020, Governor Inslee proclaimed a state of
3 emergency within the State of Washington due to COVID-19;

4 **Whereas** on March 1, 2020, King County Executive Constantine
5 proclaimed a state of emergency within King County due to COVID-19;

6 **Whereas** state law, RCW 70.05.070(2)-(3), requires and empowers the
7 local health officer to take such action as is necessary to maintain health and to
8 control and prevent the spread of any contagious or infectious diseases within the
9 jurisdiction;

10 **Whereas** state regulation, WAC 246-100-036, requires the local health
11 officer, when necessary, to institute disease control and containment control
12 measures, including social distancing measures he or she deems necessary based
13 on his or her professional judgment;

14 **Whereas**, there is evidence of increasing transmission of COVID-19
15 within King County, scientific evidence and national public health guidance
16 support strategies to slow the transmission of COVID-19 and protect vulnerable
17 members of the public from avoidable risk of serious illness or death resulting
18 from exposure to COVID-19;

19 **Whereas**, the age, condition, and health of a significant portion of the
20 population of King County places it at risk for serious health complications,
21 including death, from COVID-19. Although most individuals who contract
22 COVID-19 do not become seriously ill, persons with mild symptoms and
23 asymptomatic persons with COVID-19 may place other vulnerable members of
24 the public at significant risk; whereas a large surge in the number of persons with
25 serious infections can compromise the ability of the regional healthcare system to
deliver necessary healthcare to the public;

Whereas, the implementation of limitations on large gatherings and use of
social distancing decreases the risk of COVID-19 transmission to our most
vulnerable populations, and is especially important for people who are over 60
years old and those with chronic health conditions due to the higher risk of severe
illness and death from COVID-19;

Whereas, this Order will reduce the likelihood that many individuals will
be exposed to COVID-19 at a single event, and will thereby slow the spread of
COVID-19 in our community; Whereas, this Order will help preserve critical and
limited healthcare capacity in the County by reducing the spread of COVID-19;

Whereas, this Order is issued in accordance with, and incorporates by
reference, the March 11, 2020 Governor's Executive Proclamation on COVID-19
Community Mitigation Strategies;

Whereas this Order is issued in light of the existence of 234 cases of
COVID-19 (including 26 deaths) in King County, as of March 11, 2020, and a
significant and increasing number of assumed cases of community transmission

1 and at a time when implementation of largescale social distancing measures is
2 recommended;

3 **Whereas**, social distancing measures can reduce COVID-19 transmission
4 by decreasing the frequency and duration of social contact among persons of all
5 ages, this Order is issued to prevent circumstances often present in mass
6 gatherings that may exacerbate the spread of COVID-19, such as: (a) the increased
7 likelihood that mass gatherings will attract people from a broad geographic area;
8 (b) the a physical environment in which large numbers of people are in close
9 proximity and have multiple opportunities for close contact with one another that
10 facilitates the spread of COVID-19 and; (c) the difficulty in tracing exposure and
11 implementing traditional public health containment measures when large numbers
12 of people attend a single event;

13 **Whereas**, this Order comes after the release of substantial guidance from
14 Public Health—Seattle & King County, the Centers for Disease Control and
15 Prevention, and other public health officials throughout the United States and
16 around the world. The Local Health Officer will continue to assess this quickly
17 evolving situation and may modify or extend this Order, or issue additional
18 Orders, related to COVID-19;

19 **Whereas**, the Local Health Officer hereby finds it is necessary to institute
20 social distancing measures within King County;

21 **Therefore**, as Local Health Officer I ORDER as follows:

22 1. All events of 250 people or more, are prohibited.

23 2. Events with fewer than 250 attendees are prohibited unless event
24 organizers take the following steps to minimize risk: Older adults and
25 individuals with underlying medical conditions that are at increased risk of serious
COVID-19 are encouraged not to attend (including employees); Social
distancing recommendations must be met (I.e., limit contact of people within 6
feet from each other for 10 minutes or longer); Employees must be screened for
coronavirus symptoms each day and excluded if symptomatic; and Proper hand
hygiene and sanitation must be readily available to all attendees and employees.

3. Environmental cleaning guidelines from the US Centers for Disease
Control and Prevention (CDC) are followed (e.g., clean and disinfect high touch
surfaces daily or more frequently) For the purposes of this Order, an “event” is a
gathering for business, social, or recreational activities including, but not limited
to, community, civic, public, leisure, or sporting events; parades; concerts;
festivals; conventions; fundraisers; and similar activities.

Signed and ordered this day of March 11, 2020, in Seattle, Washington, by

Dr. Jeff Duchin Local Health Officer
Public Health – Seattle & King County

1 4. On March 12, 2020, Governor Jay Inslee ordered all schools closed in King, Pierce
2 and Snohomish counties until April 24.
3

4 5. On March 12, 2020, the Seattle Times published a Gates Foundation study cited by
5 both Governor Inslee and Dr. Duchin, *Working paper-model-based estimates of COVID-19 burden*
6 *in King and Snohomish counties through April 7, 2020*, Klein, Hagedorn, Kerr, Hu, Bedford and
7 Famulare; Institute for Disease Modeling; Bill and Melinda Gates Foundation; Fred Hutchinson
8 Cancer Research Institute, March 10, 2020. The conclusions of this study were based upon business
9 as usual; 25, 50, and 75 per cent reduction, from January 15 to April 7. The conclusion of “business
10 as usual” (that is to say, no general orders such as entered by the Governor and Public Health
11 Officer, no banning of large or small groups, no precautions) estimated 25,000 infections and 400
12 deaths by April 7. On the other hand, mitigation efforts such as announced above could reduce the
13 range of deaths by a significant amount.
14

15 6. Governor Inslee has explained that the coronavirus doubles the infection rate every
16 five to seven days. Some estimates say that by end of April, the infection rate could be one million,
17 without mitigation.
18

19 7. King County Superior Court summons (compels) citizens to act as jurors from
20 Monday through Wednesday each week to two different courthouses, the King County Courthouse,
21 in Seattle, and the Maleng Regional Justice Center in Kent. An average daily turnout is 200 in
22 Seattle, 150 in Kent, sometimes larger, sometimes smaller. They sit together and wait in each
23 courthouse in one room. They are later called for trials, where they take elevators together in groups
24 of between four to eight people, line up single file in a hallway, and then brought into a courtroom.
25

1 During voir dire, an average of between 35-50 jurors sit together closer than the social distancing
2 recommendations by Public Health for between three and 8 hours while questioned. During a trial,
3 12-14 jurors sit together closer than the social distancing recommendations by Public Health.
4 During breaks and at the end of the trial, they all gather in one room in close quarters around a table
5 for some hours and deliberate on a possible verdict. The undersigned has conducted hundreds of
6 such trials.
7

8 8. There are between 10-30 jury trials ongoing at any one time on any particular day.

9 9. Social distancing during jury selection and jury trials is nearly impossible.

10 10. On March 8, 2020, this Court entered Emergency Order #1, which expanded the
11 excusal criteria for jurors to include those over 60, with health conditions, pregnancy, as listed by
12 our Public Health and the Center for Disease Control.
13

14 11. On March 11, 2020, the Governor and Public Health Officer entered new orders as
15 quoted above to step up measures of “community mitigation.” On the same day, the World Health
16 Organization declared a global pandemic and the President of the United States spoke to the nation
17 about extreme measures he was taking. The next day, the Governor closed the schools in three
18 counties as noted. Seattle Municipal Court ordered jury trials suspended on March 12, 2020.
19 Snohomish County Superior Court plans to order jury trials suspended today.
20

21 12. Compelling citizens by legal process (jury summons) will more probably than not
22 transmit the COVID-19 disease.

23 13. Suspending jury summons will result in criminal cases being delayed because the
24 vast majority of criminal trials in King County Superior Court are jury trials.
25

1 2. It is necessary to suspend jury summons for public health reasons under the
2 current emergency. Jury summons are suspended until April 27, 2020. The jury personnel for
3 King County Superior Court shall call off jurors summoned immediately.

4 3. For all pending King County Superior Court criminal cases, under CrR 3.3, it is
5 the Court's obligation to ensure compliance with the applicable time for trial rules.
6

7 4. The Court, upon its own motion, concludes a continuance in these criminal jury
8 trials are required in the administration of justice.

9 5. All criminal jury trials scheduled to begin March 13, 2020 through April 24,
10 2020 shall be continued until Monday, April 27, 2020.

11 6. The Court finds that as of March 13, 2020 this serious danger posed by the virus
12 is good cause to continue criminal jury trials and constitutes an unavoidable circumstance
13 under CrR 3(e)(8).
14

15 7. Based upon the court's finding that the serious danger posed by the virus is
16 good cause to continue criminal jury trials and constitutes an unavoidable circumstance under
17 CrR 3.(e)(8), the time between the date of this order and the date of the next scheduled trial
18 date are EXCLUDED when calculating time for trial. See CrR 3.3(e)(3).

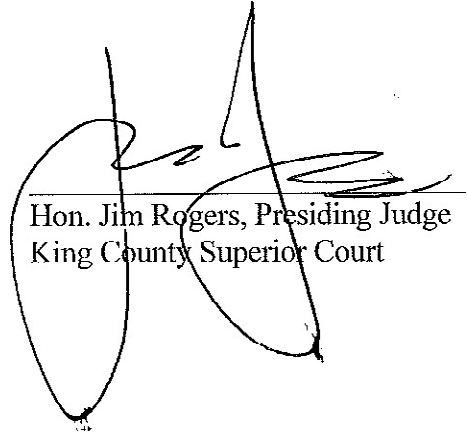
19 8. All civil, Sexually Violent Predator, Involuntary Treatment Act, and non-
20 criminal jury trials with a trial date before April 24, 2020 are continued to a new trial date after
21 April 24, 2020 as determined by the Individual Calendar (IC) Judge or the Chief Civil Judge
22 after consultation with counsel and/or the parties.
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1 9. Several trials are ongoing or in deliberations in King County Superior Court.
2 Any currently ongoing voir dire shall immediately cease and the juror panels excused.
3 Criminal cases in voir dire shall be returned to the Chief Criminal courtroom of the courthouse.

4 10. This Order shall be reviewed before the last effective date in light of the public
5 health emergency as it then exists.

6 **It is so Ordered**

7 March 13, 2020

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13 Hon. Jim Rogers, Presiding Judge
14 King County Superior Court

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