

MINUTES
BENCH BAR COMMITTEE
Monday, August 3, 2020
By C. Edward S. Mitchell, Chairman

Attendance

Participants were: Judge Lovecchio, Judge McCoy, Judge Linhardt, Brian Bluth, Skip Greevy, Jessica Harlow, Jennifer Ayers, Nicole Spring, Kathleen Raker, Brad Hillman, Dave Wilk, Angela Lovecchio, Adrienne Stahl, Michele Frey

Method: Because of continuing restrictions on in-person gatherings and the continued judicial emergency in Lycoming County, the meeting was conducted by conference call.

The current judicial emergency in Lycoming County is set to expire on August 7, 2020. While Judge Butts was not on the call, Adrienne Stahl was able to confirm that another order further extending the judicial emergency will be entered. This order will likely keep most of the provisions of the prior orders in place and will likely extend through the trial term which ends on September 18, 2020.

One of the changes to the extended judicial emergency order will relate to inmate transport, as defendants will be transported for jury and non-jury trials as well as jury selection. There also may be some changes relating to children and youth and juvenile matters.

Judge Linhardt confirmed that the practice has been to have witnesses outside until called. It has not been a perfect system but it has been fairly successful in limiting the number of people inside the courthouse at one time.

Adrienne Stahl previously circulated emails relating to the procedures that was put in place for the upcoming criminal jury selection and civil jury selection.

For all members of the public participating in jury selection, they will be provided a face shield if they do not have one. This is so that attorneys picking the juries can see the faces of the persons being selected. The face shield and social distancing will still allow protection from possible Covid-19 exposure.

Judge McCoy updated the Bench Bar Committee and indicated that Act 16 of 2019 which amended the Public School Code to redefine the definition of compulsory school age to no later than six years of age on or before September 1 until the child reaches 18 years of age (or graduates).

Judge McCoy also noted that Act 65 of 2020 has been passed, which allows the parent or guardian of a minor child to consent to involuntary mental health treatment for that child, even if the child is over the age 14 and does not consent. Judge McCoy mentioned this was an issue with plenty of 15 year olds refusing needed involuntary mental health treatment and leaving the parents and guardians with no remedy if the child did not consent to the treatment.

Judge Linhardt discussed the upcoming civil jury selection that he will be doing. He indicated that he has extensive phone conferences with counsel for both parties and that only the clients will be present for jury selection. He will be using courtroom no. 1 for the selection. A plan is to have 34 potential jurors to select a jury of 12 with two alternates. However, counsel has actively discussed reducing the number of jurors they will agree to to six or eight to help with concerns about the number jurors to potentially be available. The trial will be in Judge Linhardt's courtroom but will be moved around to allow appropriate social distancing.

Judge Lovecchio confirmed jury selection will be occurring on August 8-14. One jury will be called for a case in the morning and a separate jury will be called in the afternoon. There is one civil case set to be heard. The rest are criminal cases. They do have back up criminal cases ready to go. The trial term will be from August 24 through September 18. They indicated that "pick and go" cases are also slated.

Judge Linhardt indicated that they did not see a significant change in the number of jurors requesting deferral or excuses, despite the fact that they are receiving some Covid related request to be excused.

Judge Linhardt had looked into plexiglass dividers but has run into budgetary issues.

The temperature machine will be installed downstairs by the sheriff's station. It will alert the deputies if someone's temperature is measured at above 100.4 degrees.

Approximately 500 face shields have been ordered and have arrived. Jurors will need to put them together themselves.

Jennifer Ayers had a question about getting a colloquy from a criminal defendant signed. Judge Linhardt related that the procedure in his courtroom has been for the colloquy to include questions about the client giving the attorney permission to initial for the client and to sign the colloquy for the client.

Judge Lovecchio also indicated that he can help facilitate contact with inmates if defense attorneys are having trouble reaching clients due to Covid restrictions.

Judge Linhardt indicated that he had been doing more arguments in person but that he had been willing to accommodate requests for argument by phone. He has not made attorneys out of town come to the courthouse for oral argument.

Ed Mitchell had a question about Zoom hearing, and the judges confirmed that they believe that appropriate courtroom attire is required for any hearing including Zoom hearings.

Judge Lovecchio indicated that there have been some attorneys who have wanted to avoid coming to court and having contact with clients and that the judges

have been trying to use Zoom or grant continuances wherever possible to be sensitive to those concerns.

Jessica Harlow updated members on the Uniform Judicial Access to Digital Assets Act, which will become January 19, 2021. Practitioners should review the act and what revisions are needed to standard Wills and Powers of Attorney to obtain the benefits provided under this new act.

The next meeting will be Monday, November 2, 2020 at noon.

Respectfully submitted,

C. Edward S. Mitchell
Chairman