

## IN THE FIFTH JUDICIAL DISTRICT OF IOWA

IN RE: Administrative Directives for the Resumption of Criminal Jury Trials for the Polk County Campus

ADMINISTRATIVE ORDER 2020 - 42

On May 22, 2020, the Chief Justice of the Iowa Supreme Court issued a Supervisory Order extending the moratorium on criminal jury trials through September 14, 2020. This administrative order is intended to integrate the requirements of the Supreme Court's Supervisory order dated July 22, 2020 regarding the resumption of jury trials beginning on September 14, 2020 with the recommendations from the Jumpstart Jury Trial Taskforce Report, while balancing the need to protect public safety by mitigating the impact of Coronavirus/ COVID-19, with the goal of resuming criminal jury trials to the fullest extent possible. IT IS THEREFORE ORDERED:

### I. COVID PRECAUTIONS

**A. Trial Locations.**<sup>1</sup> In order to comply with the social distancing recommendations from the Polk County Public Health Department, criminal jury trials shall be assigned to one of the trial courtrooms set forth below. Each of these trial courtrooms shall enjoy a companion courtroom to be used for jury selection, as a jury lounge and through jury deliberations. Those courtroom assignments shall be assigned as follows:

<u>Trial Courtroom</u>	<u>Companion Courtroom</u>
Courtroom 310 (PCCC) <sup>2</sup>	Courtroom 320 (PCCC)
Courtroom 410 (PCCC) <sup>3</sup>	Courtroom 420 (PCCC)
Courtroom 208 (PCHC)	Courtroom 207 (PCHC)

<sup>1</sup> The trial courtroom and companion courtroom assignments for the Historic Courthouse (PCHC) are subject to change depending upon the progress of courthouse renovations during 2020.

<sup>2</sup> All even-numbered forcible felony offenses shall be assigned to Courtroom 310 for case management. Absent a scheduling conflict, even-numbered forcible felony offenses shall remain in 310 for trial. Effective December 28, 2020, those cases assigned to Judge Crane, as the judicial officer assigned to Courtroom 310 for calendar year 2020, shall be reassigned to the judicial officer assigned to Courtroom 310 for calendar year 2021.

<sup>3</sup> All odd-numbered forcible felony offenses shall be assigned to Courtroom 410 for case management. Absent a scheduling conflict, odd-numbered forcible felony offenses shall remain in 410 for trial. Effective December 28, 2020, those cases assigned to Judge Huppert, as the judicial officer assigned to Courtroom 410 for calendar year 2020, shall be reassigned to the judicial officer assigned to Courtroom 410 for calendar year 2021.

Courtroom 209A (PCHC)  
Courtroom 308 (PCHC)

Courtroom 305/306 (PCHC)  
Courtroom 307 (PCHC)

**B. Judicial Officers.**<sup>4</sup> The following judicial officers should be and are hereby designated to preside over all criminal jury trials through December 31, 2020:

1. Judge Crane (310 / 320)
2. Chief Judge Huppert (410 / 420)
3. Judge Scott (208 / 207)
4. Judge McLellan (209A / 305 / 306)
5. Judge Farrell (308 / 307)
6. Judge McAllister (Floater)

Those cases for which a Trial Information was filed prior to September 14, 2020, shall be specially assigned to one of the judicial officers listed herein. Any notice, motion, discovery dispute, petition to plead guilty, sentencing, or scheduling issue shall be heard by the assigned trial judge. However, once a matter has been confirmed for trial, any subsequent Motion to Continue Trial shall be reviewed and decided only by the Chief Judge or Assistant Chief Judge. **In the event that a motion to continue is granted by the trial court without prior court administration approval, the order continuing the trial is per se void.** Therefore, all Motions to Continue Trial shall be directed to the Assistant District Court Administrator (or designee) for processing.

## II. **PRETRIAL REQUIREMENTS**

**A. Arraignments.** Through December 31, 2020, where a party is represented by counsel, the court shall only accept written arraignments. If a written arraignment has not been filed with the court prior to the scheduled hearing, case coordinators are instructed to continue the scheduled arraignment for seven (7) days. Counsel shall file a written arraignment prior to the rescheduled arraignment date. If counsel fails to file a written arraignment within seven (7) days from the rescheduled date, a show cause order may be entered directing

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<sup>4</sup> Notwithstanding Administrative Order 2019-48: 1) Judge Nelmark; 2) Judge Kelly; and 3) Judge Hanson shall provide coverage to the family law administrative dockets. Judge Porter and Judge Lauber shall provide coverage for all other administrative dockets and conduct status conferences for all unassigned cases, if necessary.

counsel and the defendant to personally appear and explain why they have failed to follow the court's prior orders. Those cases for which a Trial Information was filed on or after September 14, 2020, pursuant to I.R.Crim.P. 2.9(1), Court Administration shall set a trial date approximately seventy (70) days from the date of initial arraignment.

- B. Case Reviews.** In order to continue to reduce the potential impact of COVID-19 on courthouse personnel, “pre-trial conference” hearing dates will no longer be set. Instead, and through December 31, 2020, for those cases in which a Trial Information was filed on or after September 14, 2020, Court Administration shall issue a case review (tickler) date approximately forty-five (45) days from the date of initial arraignment. The parties shall continue to diligently work to resolve cases without direct court intervention. Prior to the review date, the parties shall submit a stipulated notice, plea petition, or other status report, which the court will process. The parties' stipulations will be made of record with the filing of the parties' proposed order, petition, or report. To further ensure cases are progressing toward disposition, either party may request, or the Court may order, a hearing be set. The Court may take any additional action that will aid in the disposition of the case, including requiring the parties to both participate in a status conference and comply with the requirements detailed in Attachment “A” of this order. To the extent the parties or the Court require an in-person hearing, the Court will enter a separate order setting the same.
- C. Status Conference.** For those cases in which a Trial Information was filed prior to September 14, 2020, the parties shall be required to participate in an initial status/trial setting conference. If the parties did not participate in an initial status/trial setting conference between July 27, 2020, and September 11, 2020, the parties shall participate in an initial status/trial setting conference with the assigned trial court. The minimum status requirements for these conferences are detailed in Attachment “A” of this order.
- D. Waivers of Speedy Trial.** Consistent with the Supreme Court’s Supervisory order, those Priority #1 cases in which a Trial Information was filed prior to September 14, 2020, must be brought to trial prior to January 12, 2021; Priority #2

cases filed prior to September 14, 2020, must be brought to trial prior to March 13, 2021. For those cases filed prior to September 14, 2020, where the defendant has executed a waiver of their right to a speedy trial (i.e. Priority #3 and #4 cases), Court Administration shall assign a trial judge and the trial date based on the prioritization set forth in Section III(A)(B) of this order, but in no case prior to January 12, 2021. For those cases in which a defendant revokes their speedy trial waiver, the parties shall, within fourteen (14) days of the revocation, fully comply with the status/trial setting conference requirements as detailed in Attachment "A" of this order. Furthermore, counsel for the defendant shall deliver a courtesy copy of the revocation to the assigned trial judge.

**E. Motions to Withdraw.** Those attorneys self-identified as high risk or who object to participating in the trial process because of COVID-19 related concerns shall file a Motion to Withdraw as soon as practical, but in no case, not less than sixty (60) days prior to the scheduled trial date.

**F. Final Status Conference.** The presiding judicial officer shall conduct a final status conference not later than the Friday immediately preceding the Monday jury trial. Trial counsel shall recertify that neither they nor testifying witnesses require any special COVID-19 related accommodations. Furthermore, the parties shall file a written notice of all stipulations, including those relating to discovery, and a set of proposed jury instructions by the final status conference date.

### **III. TRIAL SELECTION**

**A. Prioritization.** Consistent with the Supreme Court's prioritization schedule, trials shall be organized as follows:

Priority 1: cases where the defendant has NOT waived speedy trial AND the defendant is IN custody;

Priority 2: cases where the defendant has NOT waived speedy trial AND the defendant is OUT of custody;

Priority 3: cases where the defendant has waived speedy trial AND the defendant is IN custody;

Priority 4: cases where the defendant has waived speedy trial AND the defendant is OUT of custody;

**B. Sub-Classifications.** Notwithstanding I.R.Crim.P. 2.9(3), to ensure there are sufficient trial resources to accommodate the most serious offenses, Court Administration shall subcategorize cases as follows:

Subcategory "A": Class A Felony

Subcategory "B": Class B (Forcible) Felony

Subcategory "C": Class C (Forcible) Felony

Subcategory "D": Class B (Non-Forcible) Felony

Subcategory "E": Class C (Non-Forcible) Felony

Subcategory "F": Class D Felony

Subcategory "G": Misdemeanor Offenses

**C. Scheduling.** All parties were strongly encouraged to continue working to resolve matters without direct court intervention. Despite that admonition, a substantial number of cases remain unresolved. Therefore, in order to fully utilize trial resources, Court Administration shall schedule no fewer than ten (10) cases for trial per week. Given the limited number of trial courtrooms, as detailed in section I(A) of this order, not more than five (5) trials may be accommodated, simultaneously. However, counsel for all scheduled trials shall be prepared to proceed on the scheduled trial date. In the event a higher prioritized case settles, or will not proceed on the morning of trial, the next highest prioritized case shall be substituted, and that case will proceed immediately to trial. This selection/substitution process shall continue until all five (5) trial slots are full or until the trial list for that trial week has been exhausted. The Assistant District Court Administrator (or designee) shall reschedule those cases that did not proceed to trial for the given trial week. To the extent trial counsel desires input in the rescheduled trial date, counsel shall contact Court Administration in writing by 12:00PM on Tuesday and provide the next available trial date. Failure to contact Court Administration constitutes a certification that counsel and all listed witnesses are available for trial on any viable trial date. This selection process shall continue until the case is tried, settled, or speedy trial has been waived.

**IV. COURTROOM PROCEDURES**

- A. Personal Protection Equipment.** All “courtroom participants” shall be required to utilize personal protection equipment at all times when in court-controlled spaces. “Courtroom participants” includes judicial officers, court attendants, court reporters, attorneys, defendants, witnesses, jurors, spectators, and media. Personal protection equipment includes, but is not limited to, face masks or face shields. Each trial courtroom has been equipped with a Plexiglas shield around each witness stand. The trial court in its discretion may allow a testifying witness to remove their PPE while testifying from the witness stand.
- B. Jury Selection.** Jury selection shall be conducted in timed stages. Unless otherwise requested and approved by the Chief Judge or Assistant Chief Judge, each trial shall be granted a forty (40) person jury panel. No more than ten (10) jurors shall be questioned in the trial courtroom at one time. In order to utilize jurors’ time most effectively, jury selection shall begin promptly at 9:00AM. Juror groups shall be scheduled as follows:

**SCHEDULED VOIR DIRE**

		<b>9:00AM</b>	<b>10:30AM</b>	<b>1:30PM</b>	<b>3:00PM</b>
<b>JURY GROUPS</b>	<b>1 – 10</b>	Trial Courtroom	Home	Home	Home
	<b>11 – 20</b>	Companion Courtroom	Trial Courtroom	Home	Home
	<b>21 – 30</b>	Home	Home	Trial Courtroom	Home
	<b>31 – 40 (IF NECESSARY)</b>	Home	Home	Companion Courtroom	Trial Courtroom

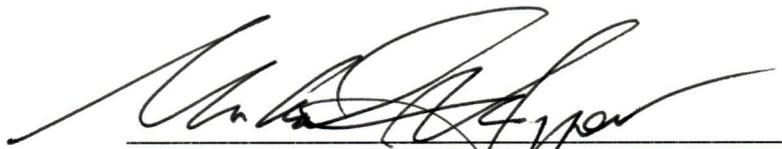
The Court will place each juror group under oath and provide the preliminary admonition. **The Court shall ensure each juror has provided reliable contact information.** After all segments are complete, the parties shall exercise strikes pursuant to I.R.Crim.P. 2.18. In its discretion, the Court may require the parties to select alternate jurors. After all challenges have been exercised or waived and the

required number of jurors have been struck, the names of jurors (including alternate jurors) remaining shall constitute the jury selected. After selection is complete, the Court shall contact those jurors chosen and provide instructions regarding the terms of their service, including when and where to report for the commencement of trial. After the full panel has reported, the Court shall administer the oath as required by I.R.Crim.P. 2.18(14). The Court, or its designee, shall promptly contact those jurors not chosen and shall advise that their term of service is complete.

**C. Control of Proceedings.** Courts should exercise reasonable control over the time spent on voir dire questioning by attorneys to expedite the process of jury selection. Where appropriate, courts may employ written questionnaires or agreed-upon common questions to prospective jurors to minimize repetition.

**V. MISCELLANEOUS** The provisions set forth herein are subject to modification as circumstances warrant. Subsequent administrative orders shall be forthcoming to address the eventual resumption of civil jury trials sometime in 2021. To the extent the Court's prior administrative orders are not modified herein, they shall remain in full force and effect.

So Ordered this 17<sup>th</sup> day of September, 2020.



HON. MICHAEL D. HUPPERT, CHIEF JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA

Copies to:  
Chief Justice Susan Christensen, Iowa Supreme Court  
Liaison Justice Edward Mansfield, Iowa Supreme Court  
State Court Administrator, Todd Nuccio  
Fifth Judicial District Judges, Staff and  
Stakeholders by e-mail and  
Posting on Judicial Branch Website

## IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA Plaintiff,  vs.  SANTA CLAUS Defendant	05771 FECR119906  <b>ORDER FOR REPORT AND  SETTING STATUS CONFERENCE</b>  Defendant is in custody
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On March 17, 2020, the Chief Justice of the Iowa Supreme Court issued a Supervisory Order regarding the Coronavirus/COVID-19. The import of the order was the Court's desire to maintain court services to the fullest extent possible, while protecting public safety by mitigating the impact of COVID-19 on court services.

On May 22, 2020, an amended Supervisory Order was issued. The amended supervisory order provided an up-to-date list of measures in effect and their expected duration. It also provided a timetable for the resumption of normal court operations, including the resumption of jury trials.

Throughout this process, all parties were strongly encouraged to continue working to resolve matters without direct court intervention. Despite that admonition, a substantial number of cases remain unresolved, including the above captioned matter. Therefore, in order to comply to the fullest extent possible with the Supreme Court's amended supervisory order, and the Jumpstart Jury Trial Taskforce recommendations, direct court intervention is now necessary.

The Court is scheduling status/trial setting conferences for all unresolved cases. Consistent with the Supreme Court's prioritization schedule, this case has been designated as a priority 1 case. Your status conference date and time is set forth below. **NOTE:** This defendant may be charged in more than one trial information. As such, there may be companion cases (i.e. cases that are unlikely to go to trial because the defendant has more serious charges, the resolution of which will also resolve the companion case). In such event, either attorney may file a motion, along with a proposed order, requesting the court defer the requirements set forth herein, as it relates to the companion case only. Any motion to defer these requirements must be filed not less than three (3) business days prior to the status conference. Furthermore, both attorneys must certify that: 1) their case is a companion case; 2) resolution is contingent upon resolution of the more serious offense; and 3) trial in the companion case will be unlikely. Attorneys in the deferred cases must still appear for the status conference, unless the attorney appearing has full authority to resolve all the defendant's outstanding cases.

Status Conference is scheduled on 12/25/2020 at 9:00 AM at the Polk Co Crim Court, 110 6th Ave, CtRm 410, DSM IA 50309.

Parties shall appear in person.

**IT IS THEREFORE ORDERED** not less than two (2) business days prior to the scheduled status conference date, the parties shall file a joint status conference report detailing the following:

**1. STATUS OF PLEADINGS AND DISCOVERY**

- a. Criminal Trial Information/Amendments(including the the date it/they were filed)
- b. Plea/Affirmative Defense (including the date it was filed)
- c. Pending Substantive Motions (type of motion and date filed)

d. Status of Discovery

e. Depositions

i. Scheduled

ii. Completed

f. Evidentiary Issues

**2. PRE-TRIAL ORDER REQUIREMENTS**

a. State

i. Proposed Jury Instructions

ii. Witness List

iii. Exhibit List

iv. Terms of plea offer (including date it was extended)(NOTE: for those cases involving codefendants, terms of plea offer need not be disclosed)

b. Defendant

i. Proposed Jury Instructions

ii. Witness List (if applicable)

iii. Exhibit List (if applicable)

iv. Plea Offers (including the date it was discussed with client, whether it was accepted/rejected and any counter offers)

v. Whether speedy trial waiver was rescinded (including date it was rescinded, if applicable)

**3. 5.104 ADMISSIBILITY ISSUES**

**4. CASE MANAGEMENT**

a. Estimated Length of Trial

b. Defendant in Custody/On Bond

c. Trial Clothes

d. Potential Scheduling Issues

e. Special needs of the attorneys and parties

f. Case specific security needs, if any.

**5. WITNESSES**

a. The parties shall certify:

i. the availability of their witnesses for all three (3) of the mutually agreeable trial dates

ii. whether they have discussed COVID-19 restrictions (i.e. social distancing and facial covering requirements) with witnesses

b. Scheduling problems

c. Special needs

**6. THREE (3) MUTUALLY AGREEABLE TRIAL DATES BETWEEN SEPTEMBER 14TH AND DECEMBER 18TH, 2020.**

**IT IS FURTHER ORDERED** that trial counsel and those defendants **NOT** in custody shall appear. For those defendants who fail to appear, either by Go To Meeting or in person, an arrest warrant shall be issued. If the defendant is in custody, the PCSO is **ORDERED** to make the defendant available via video conference.

**IT IS FURTHER ORDERED** that **ALL** issues outlined shall be addressed in the parties' joint status conference report. In those rare circumstances where counsel is unable to collaborate with opposing counsel to submit a joint status report, that attorney shall file an affidavit detailing what steps were taken to communicate with opposing counsel and when those steps were taken. Only in those circumstances may counsel submit a unilateral status conference report.

**IT IS FURTHER ORDERED** that trial counsel's failure to appear, failure to address **ALL** the issues outlined above, or otherwise failure to meaningfully participate in the status/trial setting conference

shall constitute a contempt of court (Iowa Code Sections 665.2(1)(2)) and may be punishable pursuant to Iowa Code section 665.4(2) in a summary proceeding.

**IT IS SO ORDERED this** 17th day of September, 2020

In addition to all other persons who are entitled to a copy of this order, the Clerk shall provide a copy to the following:  
FEL CC

5CRSTC

If you need assistance to participate in court due to a disability, call the disability coordinator at (515) 286-3394 or information at <https://www.iowacourts.gov/for-the-public/ada/>. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Attachment "A"



State of Iowa Courts

**Case Number**  
FECR119906  
**Type:**

**Case Title**  
STATE VS SANTA CLAUS (TEST CASE)  
ORDER SETTING HEARING

So Ordered

A handwritten signature in cursive script that reads "Kellie Meyer".

Kellie Meyer, Assistant District Court Administrator,  
Fifth Judicial District of Iowa

Electronically signed on 2020-09-17 08:39:35