

IN THE SUPREME COURT OF PENNSYLVANIA

Docket No. 21 EM 2020

In Re: Philadelphia Municipal Court's Request Pursuant to Pa.R.J.A. 1952(B)(2)(m) to Authorize the President Judge of the Philadelphia Municipal Court to Temporarily suspend Statewide Court Rules restricting the use of Advanced Communication Technology

Patrick F. Dugan, President Judge of the Philadelphia Municipal Court, hereby requests the Supreme Court to authorize the President Judge of the Philadelphia Municipal Court to continue to suspend the operation of any rule restricting the use of Advanced Communication Technology, and represents as follows:

1. By order dated October 4, 2021, the undersigned was authorized to suspend rules that restrict the use of Advanced Communication Technology (ACT) in court proceedings, subject to state and federal constitutional limitations, through November 1, 2021.
2. The October 4, 2021 order was partly based on the First Judicial District's extraordinary steps, from the onset of the pandemic, to ensure that criminal proceedings were held as safely and timely as possible. In fact, throughout the pandemic, the Philadelphia Municipal Court's criminal division NEVER closed, was able to pivot from in-person proceedings to conducting as many proceedings as possible through the use of Advanced Communication Technology with the assistance and cooperation of its justice partners which include the Defender Association, the District Attorney's Office, the private Bar, the Philadelphia Department of Prisons , the Sheriff's Office, the Philadelphia Police Department, and the City of Philadelphia's Managing Director's Office and the Department of Public Property as well as its building management subcontractor.
3. The late summer surge in COVID-19 cases has yet to subside. According to the Philadelphia Department of Health, the 7-day case average is approximately 274 new cases per day as of October 21, 2021. This number has remained steady during September and is still exponentially higher than the averages in late June and early July, which were less than 50 per day. The First Judicial District's number of positive cases among employees has continued to mirror the numbers in the general population over the same time span. This has occurred despite the continuation of mandatory mask wearing regardless of vaccination status at all court facilities. The First Judicial District has also implemented a vaccine mandate for all employees that requires all non-exempt employees to be fully vaccinated by November 15, 2021. Even as the number of vaccinated individuals has increased in Philadelphia, the average number of cases has not decreased in kind.

4. The Philadelphia Department of Prisons continues to experience conditions, which have now been exacerbated by increasing COVID-19 cases and the accompanying need to quarantine prisoners who have tested positive or are suspected positive cases. Currently, approximately 973 of the Department's prisoner population are quarantined pursuant to the prison's medical protocols. This number represents an increase of 250% since August 20, 2021. All quarantined inmates are unavailable for in-court proceedings, and the Philadelphia Municipal Court has been able to reasonably dispose of its case inventory by utilizing ACT to conduct preliminary arraignments, emergent motion hearings, Early Bail Review, Crash Court and Bench Warrant hearings which enabled the release of eligible incarcerated defendants.
5. Municipal Court judges assigned to criminal matters are working from the Courthouse and in their courtroom whether conducting in-person or remote hearings. Moreover, judges are also in-person at the Detention Center (where in excess of 1500 in-person hearings have been held), and while most proceedings are currently being conducted in-person, continued utilization of Advanced Communication Technology is necessary to assist the Philadelphia Municipal Court to manage criminal matters in a manner that both maximizes the safety of all court participants and enables the Court to conduct timely court proceedings benefiting all involved parties.

Therefore, due to the factors noted above as well as detailed in previous requests to this Court, the undersigned respectfully requests that the Court enter an order authorizing the undersigned to continue to temporarily suspend, as necessary, any rule restricting the use of Advanced Communication Technology through December 1, 2021, or for such other time as the Court deems appropriate.

Date: October 29, 2021

/s/ **Patrick F. Dugan**

Honorable Patrick F. Dugan
President Judge, Philadelphia Municipal Court