

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 November 3, 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 December 1, 2021.
2. The November 3, 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 continued 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, the City of Philadelphia's Managing Director's Office, and the Department of Public Property as well as its building management subcontractor.
3. Municipal Court judges assigned to criminal matters are continuing to work in the Courthouse, and in their courtroom in conducting both in-person and remote hearings and proceedings.
4. The Philadelphia Municipal Court has been able to reasonably and timely 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 have enabled the release of eligible incarcerated defendants. In addition, Municipal Court judges are assigned and are present in-person at the Detention Center and do conduct in-person preliminary hearings to the extent inmates and other court participants are able to safely participate in-person or partially remotely.

5. Due to Covid exposure and Covid-related conditions, as described below, it is often not possible to conduct full in-person proceedings either at the Detention Center or at the Courthouse. 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.
6. Covid-19 cases in Philadelphia county have increased recently. The daily average for new reported cases by day as of November 28, 2021 is 295, representing a 14-day increase of 45%. The First Judicial District's number of positive cases among employees has continued to fluctuate, despite the District's implementation of a Covid-19 vaccination requirement for employees and a masking requirement for all other court users. The growing number of Covid-19 variants, including the recently discovered Covid omicron variant, necessitate the continuation of measures necessary to limit the spread of Covid, including continuation of remote hearings as necessary.
7. The Philadelphia Department of Prisons continues to experience increasing positive COVID-19 cases. Inmates who have been exposed to fellow Covid positive inmates or staff, or are suspected of being infected, or who have tested positive for Covid-19 are quarantine and are thus unable to participate in in-court proceedings. The staffing shortage experienced by the Department of Prisons has also impacted their ability to transport prisoners for in-court proceedings. Remote proceedings using advanced communication technologies are critical and necessary to enable the Court to timely schedule and hold preliminary hearings and other proceedings.
8. Transporting prisoners for in-person proceedings and conducting other in-person proceedings presents a potential threat to prison and court staff, as well as other court participants, by exposing them to prolonged contact with inmates and other parties who may have been exposed to Covid-19 and having the ability to utilize ACT diminishes such potential threat.

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, subject to state and federal constitutional requirements, any state or local rule restricting the use of Advanced Communication Technology.

Respectfully submitted,

/s/ Patrick F. Dugan

Honorable Patrick F. Dugan
President Judge, Philadelphia Municipal Court
Date: November 29, 2021