

FILED

MAR 27 2020

IN THE 16TH JUDICIAL DISTRICT OF TENNESSEE

2:30 P M
MELISSA MARRELL
DEPUTY CLERK

IN RE: * STANDING ORDER
COVID-19 PANDEMIC * JUDICIARY SITTING *EN BANC*

STANDING ORDER REGARDING PRETRIAL DETENTION

The Tennessee Supreme Court declared a state of emergency for the judicial branch of Tennessee government in response to the COVID-19 pandemic on March 13, 2020, filing an Order suspending in-person court proceedings. That Order has now been extended until the close of business, April 30, 2020. The judiciary of this district has been monitoring developments related to the pandemic closely, in particular with regard to the impact of the pandemic on this district's jail population. The high population density of the local jails during the current pandemic poses a special problem not only for those incarcerated but also for the corrections officers, sheriffs' deputies, law enforcement officers, health care workers, and other professionals who regularly come in contact with inmates. The Judges of the 16th Judicial District, sitting *en banc*, find that it is necessary and appropriate to take the following extraordinary measures in recognition of this problem to balance the interests of justice with the interests of public health.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

BAIL FOR UNSENTENCED DEFENDANTS

A. MISDEMEANORS

- i. The Judicial Commissioners of Rutherford County shall continue the use of the Pretrial Release Risk Assessment tool to evaluate the appropriateness of setting a bond or releasing a defendant on their own recognizance and into the supervision of the pretrial release program for persons arrested for any non-violent misdemeanor

offense occurring within the 16th Judicial District after the effective date of this Order. The Judicial Commissioners shall comply with all provisions of the Standing Order Regarding Pretrial Detention in the 16th Judicial District, notwithstanding the parameters of the Pretrial Release Risk Assessment. Nothing in this Order is intended to limit the ability of the Office of the District Attorney General from filing a motion requesting that bail be required for a specific case.

- ii. That bail for non-violent misdemeanor offenses for which any unsentenced inmate is currently held in any jail within the 16th Judicial District is reduced to a release on recognizance (ROR). These inmates are to be released on their own recognizance pending further disposition of their cases. Each mittimus releasing the defendant shall include the defendant's next court date and be signed by the defendant. A copy of the signed mittimus shall be retained in the case file and a copy given to each defendant prior to their release.

B. FELONIES

- i. The Judicial Commissioners of Rutherford County shall continue the use of the Pretrial Release Risk Assessment tool to evaluate the appropriateness of setting a bond or releasing a defendant on their own recognizance and into the supervision of the pretrial release program for persons arrested for any felony offense occurring within the 16th Judicial District after the effective date of this Order. The Judicial Commissioners shall comply with all provisions of the Standing Order Regarding Pretrial Detention in the 16th Judicial District, notwithstanding the parameters of the Pretrial Release Risk Assessment. Nothing in this Order is intended to limit the

ability of the Office of the District Attorney General from filing a motion requesting that bail be required for a specific case.

- ii. That bail for unsentenced felony offenses for which an inmate has been determined to be indigent and is currently held in any jail within the 16th Judicial District be set according to the attached Schedule A. Nothing in this Order is intended to limit the ability of the Office of the District Attorney General or of any inmate or defense attorney to file motions requesting that bail be modified.
- iii. That bail shall be set according to the attached Schedule A for any felony offense occurring within the 16th Judicial District after the effective date of this Order, or for any felony offense alleged in an indictment remaining unserved after the effective date of this Order.

C. PROBATION VIOLATIONS

- i. The Judicial Commissioners of Rutherford County shall continue the use of the Pretrial Release Risk Assessment tool to evaluate the appropriateness of setting a bond or releasing a probationer on their own recognizance and into the supervision of the pretrial release program for persons arrested for any violation of probation (Misdemeanor, Felony, or Community corrections) within the 16th Judicial District after the effective date of this Order. The Judicial Commissioners shall comply with all provisions of the Standing Order Regarding Pretrial Detention in the 16th Judicial District notwithstanding the parameters of the Pretrial Release Risk Assessment, Nothing in this Order is intended to limit the ability of the Office of the District Attorney General from filing a motion requesting that bail be required for a specific case.

- ii. That bail be reduced to a release on recognizance (ROR) and that the same probationers be released on their own recognizance pending further disposition of their cases for any unsentenced violation of probation (Misdemeanor, Felony, or Community Corrections) arising from a non-violent misdemeanor or felony offense, for which the basis of the alleged violation of probation is as specified in Schedule A, and for which any inmate is currently held in any jail within the 16th Judicial District. Any mittimus shall include a notice of the probationer's next court date; be signed by the probationer and a copy given to the probationer and a copy of the signed mittimus filed with the appropriate court clerk. Any probationer released under this order is required to report to the appropriate supervising agency by 9:00 a.m. of the next business day following their release.
- iii. That bail shall continue to be set by the judge approving the warrant for all alleged violations of probation (Misdemeanor, Felony, or Community Corrections) other than those outlined in Schedule A.

D. CONTEMPT

- i. That bail for indigent inmates as evidenced by a properly completed and sworn to Affidavit of Indigency who are held in custody based on any allegation of criminal or civil contempt, other than the failure to appear for an alleged felony offense, is reduced to a release on recognizance (ROR) and the same inmates be released on recognizance pending further disposition of their cases.
- ii. That no bail be required for any person arrested on any allegation of criminal or civil contempt, other than the failure to appear for any alleged felony offense or violation of felony probation not otherwise eligible for own recognizance release.

iii. For all matters involving civil contempt of court for failure to pay child support:

1. Persons currently incarcerated based on a finding of contempt of court for failure to pay child support shall be afforded an expedited hearing to be conducted as soon as possible, and no later than April 1, 2020, to determine whether the current purge amount should be reduced or eliminated.
2. Persons currently incarcerated pursuant to attachment for failure to appear for a hearing as to whether they should be found in contempt of court, or pursuant to attachment under T.C.A. 36-5-101(f)(2), shall be afforded an expedited hearing, to be conducted as soon as possible, and no later than April 1, 2020, to determine whether the current bond amount should be reduced or eliminated.
3. Service of outstanding attachments for failure to pay child support shall be suspended until further notice. Should any such attachment nevertheless be served on a Defendant during the pendency of this Order, the bond on such attachment shall be eliminated by operation of this Order without necessity of further findings from the Court; Defendant shall be released on their own recognizance, pending further hearing. The date for such a hearing, as well as any necessary documents to secure the Defendant's release, shall be obtained through the Clerk of the applicable Court and provided to Defendant in writing at the time of their release.

E. HEARINGS

That all hearings regarding any dispute about bail may be conducted telephonically or by video conferencing, unless the Judge conducting the hearing orders the hearing to be conducted in person.

SCHEDULE "A"

Offenses Eligible for Own Recognizance Bonds

1. Non Violent Misdemeanors
2. Non Violent C, D, & E Felonies
3. Probation violations based solely on:
 - (a) any allegation of a positive drug screen or admission to use of any controlled substance;
 - (b) any allegation of absconding supervision for a period of four months or less;
 - (c) any allegation of the commission of a new misdemeanor offense other than domestic assault or driving under the influence;
 - (d) any allegation of failure to pay court costs, restitution, supervision fees, or any other payment required by the court as a condition of probation;
 - (e) any allegation of failure to complete any class or assessment; or
 - (f) any other allegation of a technical violation of the rules of probation, excluding the commission of a new felony offense or a new misdemeanor offense involving domestic assault or driving under the influence- second offense or higher.
4. All other offenses and revocations not set forth in 1, 2 and 3 above are to be set by the appropriate court.
5. This Order shall take effect immediately; however, it does not affect any persons who have previously been released on bond.

For purposes of this Schedule, a violent offense would be those offenses against the person set forth in T.C.A. 39-13-101 thru 39-13-533 and those against children as set forth in T.C.A 39-15-401, 402, aggravated burglary, driving under the influence (third offense or above), and all forms of domestic assault.

ENTERED: This 27th day of March, 2020.

JUDGES OF THE 16TH JUDICIAL DISTRICT

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