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Conference of Circuit Judges

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MINUTES OF THE MEETING OF THE CONFERENCE OF CIRCUIT JUDGES

A meeting of the Conference of Circuit Judges was held Monday, September 21, 2020, via Zoom for Government, beginning at 12:20 p.m.

Members Present

Hon. Laura S. Ripken, Chair

Hon. Brian D. Shockley
Hon. Brett W. Wilson
Hon. Keith A. Baynes, Vice Chair
Hon. Stephen H. Kehoe
Hon. Yolanda L. Curtin
Hon. Kathleen Gallogly Cox
Hon. Jeffrey S. Getty
Hon. Viki M. Pauler
Hon. William V. Tucker

Hon. Robert A. Greenberg
Hon. Julie S. Solt
Hon. Sheila R. Tillerson Adams
Hon. Donine Carrington Martin
Hon. Audrey J. S. Carrión
Hon. Barry G. Williams
Hon. Charlene Notarcola
Melissa Batie
Pamela Harris

Also, Present Were:

Hon. Lynn Knight
Kelley O'Connor

Faye Gaskin

1. Approval of Minutes

Judge Ripken called for approval of the minutes of the November 18, 2019 Conference meeting. Judge Carrion moved for approval of the minutes, which was seconded by Judge Baynes. The motion passed.

Judge Ripken then welcomed Judge Getty, Circuit Administrative Judge for the Fourth Circuit and County Administrative Judge for Allegany County. She advised him that as a circuit administrative judge, he is a standing member of the Conference.

The circuit administrative judges were advised that elections need to be held for their circuit representatives, who do not have to be county administrative judges. They will begin the 2021-2022 Term on January 1, 2021. The elections should be held before the November meeting.

Judge Ripken also advised that a nominating committee, comprising three circuit administrative judges, has to be appointed to nominate the Conference chair and vice chair for the upcoming term. She asked anyone who is interested in serving to contact her, noting that if a judge is interested in serving in either capacity, he or she cannot serve on the nominating committee.

2. Miscellaneous Items

Judges Adams and Shockley agreed to join Chief Judge Barbera and Judge Ripken in presenting to the House Judiciary Committee on the resumption of jury trials. The Committee will be given a copy of the jury trial workgroup's report.

Judge Ripken stated that Chief Judge Barbera inquired as to whether jurisdictions are using locations other than their courthouses for jury selection. Judge Carrion noted that Baltimore City is using remote technology to do voir dire in civil matters. Those prospective jurors who are not technologically-savvy will be brought in to participate on Zoom from one of the courtrooms. A questionnaire has been created for jurors, which will be completed in jury assembly rooms around the courthouse to allow for social distancing. Each juror will be interviewed individually by the presiding judge. Some Covid-19-specific questions will be added to the questionnaire.

Judge Curtin stated that Harford County is exploring areas outside the courthouse and the court is waiting to hear from the community college. In addition, the county is looking into larger county facilities that the court might be able to utilize. The court also is considering how to safely conduct jury selection in the courthouse, possibly staggering prospective jurors.

Judge Cox remarked that Baltimore County is trying to work out the particulars to use the State Fairgrounds, including payment and how long the court might be able to utilize the space. The plan is do jury selection offsite by late October/early November. Internal jury selection will have to be staggered.

Judge Adams noted that Prince George's County is utilizing three courtrooms, linked through technology, to conduct voir dire onsite and for jury trials. One of the courtrooms will be used for deliberations and one for the public and press to observe the proceedings. The court is planning to begin with 4/4 and 10/5.

Judge Tucker stated that Howard County is exploring offsite locations. The court administrator is working with the community college, the local high school, and the National Guard Armory as possible locations. Judge Tucker noted that he is weighing the security concerns associated with criminal matters offsite. The court is planning for two panels, one in the morning and one in the afternoon with individual voir dire in the empty courtrooms.

Judge Getty noted that Garrett County will utilize the local high school for jury selection. The jury will then return to the courthouse for the trial. Allegany County will stagger the jurors in the courthouse, doing 4/4 and 10/5. Judge Getty stated that there is a 20/10 trial scheduled for the third week in October, for which jury selection will be impossible to conduct at the courthouse unless the panels are staggered. There is a building adjacent to the courthouse that may be a possibility. Security issues have hampered efforts to utilize other offsite locations.

Judge Baynes stated that he is waiting to hear back from the firehouse as a possible location for the grand jury and jury selection for more serious cases requiring larger panels. The court may be able accommodate 4/4 and 10/5 onsite. Judge Baynes noted that he ordered partitions and, because they are COVID-19-related, the county is seeking reimbursement through CARES Act funding.

Judge Greenberg remarked that there are two places in the courthouse that can accommodate 48 jurors for non-incarcerated criminal cases. For incarcerated criminal cases, the court should be able to use the ceremonial courtroom. He plans to start slowly with small strike cases and possibly some medium strike cases. Judge Greenberg noted that there are security concerns with criminal cases at offsite locations.

Judge Shockley stated that his courthouse has limited space and that the firehouse seems to be workable. The firehouse is attached to a bay that can be used for the transport van and the entrance can be blocked off. He is working with the sheriff on security issues.

Judge Kehoe stated that he is staggering voir dire and that he is alerting attorneys that it may take longer. As such, he is adding one day to each trial. There is no space in the courthouse for social distancing, so the jury will have to leave for deliberations. He is exploring offsite locations. Judge Kehoe is looking into microphones for bench conferences, or he may move to the small courtroom or chambers.

Judge Pauler noted that jury selection will take place at the courthouse in the ceremonial courtroom. She added that 4/4 are scheduled through the end of the year and that the court will experiment with 10/5 but is not sure about the bigger cases. There are no offsite locations near the courthouse that can be used for jury selection, but the court is continuing to explore all possibilities, including business locations. In addition, the county has been approached for funding for new technology to link courtrooms as it is difficult to do voir dire in the small courtrooms.

Judge Wilson stated that the old warehouse can accommodate approximately 100 jurors. The court will use Zoom to connect back to the courthouse for recording into CourtSmart. He is planning to do 4/4, 10/5, and 20/10. The two small courtrooms will be connected through Polycom. The sheriff is assisting with extra security. Expenses are being funding through the CARES Act.

Judge Curtin inquired as to whether there are any constitutional concerns with the defendant not being present in each courtroom that is connected. Judge Wilson responded that the Public Defender has been involved throughout and any objections are addressed. Judge Adams stated that both the Public Defender and the private bar have been involved. The defendant is able to observe the jurors in all courtrooms. For the final strike, all jurors are

brought into one courtroom. Judge Ripken added that she always does an inquiry on the record to ensure the defendant is freely participating in and agrees with the manner in which the proceeding is taking place. The Public Defender and State's Attorney are involved in the process.

Judge Solt stated that the court is using a building owned by the City of Frederick for jury selection for criminal trials. The plan is to bring small groups into the courtroom for voir dire. The court plans to do a few 10/5 and is exploring voir dire for civil cases as well, noting that the security risks are not the same.

Judge West plans to use a room in the county government building through April. Jurors will report to the courthouse to complete the questionnaire and watch the video. They then will be directed to the county building, escorted by law clerks and sheriff deputies where they will once again be screened. Groups of 10-15 will transported to another room for voir dire.

Judge Ripken noted that she had received feedback regarding the weekly meetings with all administrative judges and the thought is that it might be worth examining the Conference structure to determine whether additional administrative judges should be added to the membership. She stated that restructuring may require a Rules change. Judge Ripken will create a work group to facilitate a discussion and asked any judge interested in serving to contact her.

There being no further discussion, the meeting ended at 1:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Faye Gaskin".

Faye D. Gaskin
Conference Secretary