

FIFTH JUDICIAL DISTRICT COURT
 BEAVERHEAD COUNTY
 FILED
 OCT 18 2020
 CARLY JAY ANDERSON, CLERK
 BY *Carly Jay Anderson*

MONTANA FIFTH JUDICIAL DISTRICT COURT, BEAVERHEAD COUNTY

STATE OF MONTANA,)	Cause No. DC 19-3876
)	
Plaintiff,)	ORDER CONCERNING
)	COVID-19 DIRECTIVES
)	
THOMAS RICHARD FERRIS,)	
)	
Defendant)	
_____)	

On October 16, 2020, the Court will conduct the voir dire of the jury in this case at the Beaverhead County High School Gymnasium (“Gymnasium”). On October 19, 2020, the Court will conduct the trial at the Beaverhead County Courthouse for a period not to exceed four (4) days. The Clerk of the District Court has diligently made arrangements for the procedures at both facilities. On October 8, 2020, the undersigned Judge spoke with Sue Hansen, the Beaverhead County Public Health Director, who spoke with Dr. Megan Evans, the Beaverhead County Health Officer, about the Court’s plans for conducting the voir dire in the Gymnasium and the trial in the Courthouse. Ms. Hansen advised the Court that both she and Dr. Evans prefer that the Court not allow the public in the Gymnasium during the voir dire to minimize the number of people gathered in one place. The Court inquired of counsel for the parties whether there were any objections to the Court precluding the public from the Gymnasium during voir dire. By email response neither counsel had any objection. Based upon the Court’s conversation with Ms. Hansen, the Governor’s

COVID-19 directives, the Montana Supreme Court's directives, the arrangements made by the Clerk of the District Court and there being no objection by counsel concerning public closure of voir dire, the Court issues the following Order.

IT IS HEREBY ORDERED:

1. The attached applicable Fifth Judicial District Courtroom Procedures and Court Information shall be followed at all proceedings unless an exception is allowed by the Court.

2. **GYMNAISUM.** The public is excluded from the Gymnasium during voir dire, except as otherwise provided in this Order. A reporter from the Dillon Tribune or any other media outlet may be allowed in the Gymnasium, shall be subject to all of the rules set forth in this Order and shall remain in a designated location.

3. During the voir dire in the Gymnasium the County Attorney may have his office staff consisting of three people and one officer attend the voir dire. These individuals shall not sit on the stage with the County Attorney but shall sit in a place designated by the Clerk of the District Court to maintain social distancing. The County Attorney may approach his representatives before he passes the jury for cause to inquire about any further questioning. The law enforcement officer shall be in plain clothes and the officer cannot be Chief Don Guiberson, who is sequestered by the witness exclusion order.

4. The Defendant may have a paralegal and Dr. Amtmann attend the voir dire. However, the paralegal cannot sit at counsel table, but the paralegal and Dr. Amtmann shall sit in a place designated by the Clerk of the District Court to maintain social distancing. The only individuals at counsel table shall be the Defendant and both of his counsel. Defendant's counsel may approach the paralegal and Dr. Amtmann before he passes the jury for cause to inquire about any further questioning.

5 The stage for the Court, Clerk of Court, Court Reporter, the County Attorney, Defendant and Defendant's counsel shall be configured to maintain social distancing.

6 All persons, namely Court personnel and the parties and their representatives, who enter the Gymnasium building shall wear masks and maintain social distancing of at least six feet, except for Defendant and his counsel at counsel table. At all times while in the building and Gymnasium no person shall remove his/her mask unless authorized by the Court.

7. The prospective jurors shall be accompanied to their designated seats in the Gymnasium by the Clerk's assistant. The prospective jurors shall be told to remain in their designated seats until further instruction from the Court.

8. During the voir dire counsel shall remain at their designated places on the stage. Also, during the voir dire an assistant of the Clerk shall take a microphone to a prospective juror who is being asked a question for the person to be heard while answering the question. The juror shall not remove the mask while answering the question. However, the Court reserves further consideration of this requirement as the process unfolds and depending upon the circumstances. Counsel shall not remove the mask while asking a question. When the Court introduces counsel and Mr. Ferris each individual may briefly pull the mask down so that the face may be seen by the prospective jurors.

If counsel is giving a lengthy explanation of a matter, similar to a speech, counsel may remove the mask as the Court will do when it gives its instructions to the jurors.

9. If a juror is excused, the Clerk's assistant shall sanitize the area of the excused juror before the replacement juror is called to the chair.

10 No person shall leave the Gymnasium without permission of the Court. When the Court takes a bathroom break, all persons shall wear their masks and shall not congregate in the

foyer. All persons shall remain in their designated seats unless permission is granted by the Court to move.

11. **COURTROOM.** The public is excluded from the Courtroom during voir dire, except as otherwise provided in this Order. A reporter from the Dillon Tribune or any other media outlet may be allowed in the Courtroom, shall be subject to all of the rules set forth in this Order and shall remain in a designated location. The trial in the Courtroom shall be available to the public through livestreaming. The Clerk of the District Court shall advertise the connection to the livestream access on the County's website.

12. The jury room for this case shall be the entire hallway and jury room which is entered through the back of the Courtroom. All persons, other than jurors, are strictly prohibited from entering that designated area.

13. During the trial the jurors shall be seated on the right side of the Courtroom facing from the bench. The designated seats shall be socially distanced. It is not necessary for the jurors to be seated in any particular order, except that the jurors shall not change seats at any time. During breaks jurors shall wear their masks and maintain social distancing in the jury room as much as possible.

14. At counsel table, the State's table will be limited to the County Attorney and an assistant from the County Attorney's Office. A law enforcement officer or witness may not be seated at the State's table. The Defendant's table shall be limited to the Defendant, and Defendant's counsel. If Mr. Flowers does not attend in the Courtroom, a paralegal may be seated at Defendant's table.

15. All persons in the Courtroom shall wear masks unless permission is granted by the Court to remove the mask. Counsel and their representatives and Defendant shall wear masks of their choice or one provided by the Clerk of the District Court.

16. A witness may be allowed to remove the mask or wear a mask provided by the Clerk of the District Court when testifying. When counsel is questioning a witness, counsel shall be allowed to remove the mask or wear one provided by the Clerk of the District Court as required by the Court. Counsel shall question a witness from the podium in the area designated by the Court.

Dated October 13, 2020.



Hon. Mike Salvagni
Presiding District Court Judge

c: Jed C. Fitch
Jack H. Morris
Brent Flowers
Diane Kaatz, Court Administrator
Kathy Hilton/Robyn English, Court Reporter
Bill Knox/Austin Cross, Bailiff

Fifth Judicial District Courtroom Procedures and Court Information

These rules are subject to change as new orders and guidelines are issued and restrictions are relaxed.

- 1) Parties are encouraged but not required to appear by electronic means starting June 1, 2020.
- 2) If you are feeling ill, you SHALL notify either your counsel or the person who requested your attendance to either reschedule the hearing or arrange an alternative mode of appearance. If you are unable to contact those individuals, you SHALL notify the Clerk of Court and await further instructions.
- 3) For parties wishing to appear electronically you must notify the clerks of this 24 hours in advance.
- 4) Hearings will continue with a staggered schedule.
- 5) Attorneys with multiple hearings can stay in the Courtroom but must observe social distancing.
- 6) Parties, witnesses, victims, and guests of all, shall wait outside the courthouse observing social distancing prior to their hearings and are not allowed to wait in the courthouse, without specific permission, upon conclusion of their hearing. Only necessary people or those with advanced permission will be allowed in the courtroom.
- 7) ALL persons entering the courtroom SHALL wear a face mask.
- 8) Upon entering the courtroom all persons SHALL use hand sanitizer which will be provided by the District.
- 9) Each morning the tables and witness stand will be sanitized.
- 10) Counsel and their clients shall do their best to observe social distancing during court appearances. For hearings with multiple attorneys or multiple parties social distancing will require scattering throughout the jury box if tables are occupied.
- 11) Upon end of each use counsel (or pro se participants) will be required to use cleaning materials to spray down the table or area in front of them and chair. Products for cleaning will be provided.
- 12) All persons entering the courtroom shall be cognizant of their surroundings and attempt to make contact with as little of the furniture and surfaces as possible.
- 13) For hearings/trials with more than two witnesses, additional witnesses shall wait outside the courthouse until notified they can enter. For hearings with two witnesses, upon permission the second witness can wait in the jury room. They will be required to sanitize any surfaces they touch upon exiting the jury room. If the exclusionary rule is not invoked witnesses may sit in the gallery but must observe social distancing of at least 6 feet and will be required to sanitize the areas they used upon leaving.
- 14) These rules apply specifically to hearings and bench trials. Additional rules will be supplied for jury trials.