

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

IN RE: 32nd JUDICIAL DISTRICT : PA SUPREME COURT NO. 30 MM 2020
: :
Postponement of Weekend-Partial :
Confinement Sentencing Terms :
*Extended*¹ : DELAWARE COUNTY NO. 5120-17

FIFTH ORDER DIRECTING EMERGENCY POSTPONEMENT OF WEEKEND-PARTIAL CONFINEMENT SENTENCING TERMS AT THE GEORGE W. HILL CORRECTIONAL FACILITY, AS AMENDED²

AND NOW, this 16th day of February, 2021, this court having previously declared in the thirty-second (32nd) judicial district (Delaware County) a judicial emergency and recently once more extended that emergent declaration pursuant to such an order of the Pennsylvania Supreme Court sanctioning the same,³ as well as Pa.R.J.A. No. 1952(B)(1)(2), and this court thus still having those authorities detailed under Pa.R.J.A. No. 1952(B)(2)(a-s), it is hereby **ORDERED** and **DECREED** in consultation with the criminal liaison judge, as well as on the continuing agreement of the Delaware County District Attorney's Office, that **EFFECTIVE IMMEDIATELY** through and including **APRIL 30, 2021**, this court's Fifth Order Directing the Emergency Postponement of Weekend-Partial Confinement Sentencing Terms ... ⁴ **SHALL** be **AMENDED** as follows:⁵

ALL defendants presently sentenced, *inter alia*, to a partial confinement period of just forty-eight (48) or seventy-two (2) hours **SHALL** report as presently scheduled to the George W. Hill Correctional Facility (Delaware County Prison) and then be committed for purposes of serving the same.

ANY defendants currently sentenced to serve at the county jail (George W. Hill Correctional Facility) a sentence of multiple weekend confinements and/or numerous periods of partial incarceration otherwise **SHALL** report as currently scheduled; however, on next appearing at the George W. Hill Correctional Facility (Delaware County Prison) all such defendants **SHALL NOT** be admitted, but rather, given written notice consistent with his or her sentencing terms and/or conditions of a future date certain on which he or she must again report to the county jail (George W. Hill Correctional Facility) to resume serving these partial confinement sentencing conditions (*E.g.* Five (5) weekend imprisonments and/or two (2) seventy-two (72) hour incarceration terms). The date and time George W. Hill Correctional Facility (Delaware County Prison) officials provide these defendants to resume reporting at the county jail (George W. Hill Correctional Facility) for purposes of serving their multiple weekend – partial confinement sentences **SHALL** be consistent by day of the week and time as such is detailed by the controlling certificate of imposition of judgement of sentence⁶ and no more than sixty (60) days subsequent from this order's date.

Salient personnel of the George W. Hill Correctional Facility (Delaware County Prison) **SHALL** sufficiently memorialize the written notice afforded **ALL** these defendants about when he or she is to resume serving these sentences of multiple weekends and/or partial confinement terms, including but not limited to **ALL** such notifications being signed by the defendant, as well as an identifiable prison staff member, with a copy of the same provided to **ANY** defendant so in the event a given defendant does not once more appear as that notice directs, then a bench warrant may properly issue.

The postponement directed above of those defendants reporting to the county jail (George W. Hill Correctional Facility) for purposes of serving multiple weekends and/or partial

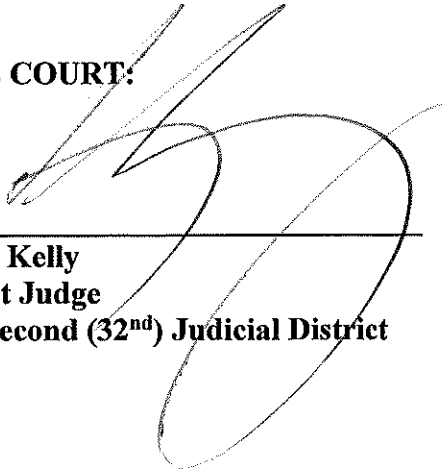
incarceration sentencing terms **SHALL NOT** reduce the number of such days any defendant must serve, but rather just temporarily delay when a defendant for such purposes is to report to the George W. Hill Correctional Facility (Delaware County Prison).

ALL other sentencing terms and/or conditions of a defendant serving a multiple weekend sentence of confinement and/or numerous partial incarceration terms otherwise **SHALL REMAIN** in full force and effect, including but not limited to reporting as required to the Delaware County Adult Probation and Parole Office.

That directed above as subsequent material circumstances warrant and/or it otherwise believes appropriate may be revisited by this court and modified to meet the evolving concerns presented by the ongoing COVID-19 public health crisis.⁷

To the extent possible and practical under the material circumstances, notice of this order has been and/or will promptly be posted about the Delaware County courthouse, including but not limited to the complex's entry doors, the Delaware County Office of Judicial Support, the Court Administrator's Office of Delaware County, the Criminal Court Administrator's Office, the court's website, all magisterial district court facilities within Delaware County, the Delaware County Bar Association's website, and submitted to the Administrative Office of Pennsylvania Courts ("AOPC") for posting on the Commonwealth's Unified Judicial System's website per Pa.R.J.A. No. 1952(C)(5).⁸

BY THE COURT:



Kevin F. Kelly
President Judge
Thirty-Second (32nd) Judicial District

¹ See Emergency Order Postponing Partial Confinement dated March 18, 2020; Order Extending Emergency Postponement of Partial Confinement dated April 7, 2020; Second Order Extending Emergency Postponement of Partial Confinement dated April 28, 2020; Third Order Extending Emergency Postponement of Partial Confinement dated May 28, 2020; Fourth Order Extending Emergency Postponement of Partial Confinement dated November 20, 2020; and Fifth Order Extending the Emergency Postponement of Partial Confinement dated January 22, 2021.

² Following consultations with salient George W. Hill Correctional Facility (Delaware County Prison) managerial personnel, the amendments adopted by this order allow for defendants directed to undergo a single term of partial confinement (E.g. One 48 hour period of partial imprisonment) to resume serving such sentences while still postponing the commitment of defendants to the county jail (George W. Hill Correctional Facility) consistent with the directives of this court's immediate past such emergent order salient to multiple weekend imprisonments and/or numerous partial confinement terms otherwise. See Fifth Order Extending the Emergency Postponement of Partial Confinement dated January 22, 2021.

³ See Orders dated March 16, 2020, pp. 1-2; March 18, 2020, pp. 1-3; April 1, 2020, pp. 1-3; April 28, 2020, pp. 2-5; and May 27, 2020, pp. 1-3 - Pennsylvania Supreme Court, Nos. 531 and 532, Judicial Administration Docket; Emergency Declaration dated March 17, 2020; Emergency Declaration Extension dated April 2, 2020; Second Emergency Declaration Extension dated April 28, 2020; Third Emergency Declaration Extension dated May 27, 2020; Fourth Emergency Declaration Extension dated July 8, 2020; Fifth Emergency Declaration Extension dated October 20, 2020; and Sixth Emergency Declaration Extension dated January 22, 2021. See also Pa.R.J.A No. 1952(B)(1)(2).

⁴ See Fifth Order Extending Emergency Postponement of Partial Confinement dated January 22, 2021.

⁵ See Pa.R.J.A. No. 1952(B)(2)(d)(h)(q). See also *Petition of the Pennsylvania Prison Society ...*, Pennsylvania Supreme Court No. 70 MM 2020 – Order dated April 3, 2020, and *Philadelphia Inquirer*, May 13, 2020, Section B, p. 1 (“Infections greater at Delco jail - Jail: Nearly half of inmates tested had virus; infection rate 50 times that of the population at large.”); May 16, 2020, Section A, pp. 1, 4 (“Over that past 14 days, Delaware County has on average 275 cases for each 100,000 residents ... significantly higher than the suburban counties surrounding it.”); May 19, 2020, Section A, pp. 1, 6 (“Virus Rate Remains Stubbornly High in Delaware County”); May 22, 2020, Section A, pp. 1, 9 (“Delaware County trails Philadelphia and the other counties in flattening the curve of new cases.”); July 2, 2020, Section A, pp. 1, 6 (“... Pa. reports biggest one-day increase since June 5... . Cases ... June 1 ... July 1 ... Change ... +8%.”); July 8, 2020, Section A, pp. 1, 6 (Delaware County infection rate increases from 23 to 32 per 100,000 persons.); July 16, 2020, Section A, pp. 1, 6 (“New Pa. limits as cases rising ... After averaging about 400 new cases a day less than a month ago, this state is now averaging close to 800. Case counts have increased in 43 counties and the percentage of people testing positive has increased in 28 counties”); July 20, 2020, Section A, pp. 1, 9 (Three (3) of the five (5) municipalities having the greatest number of Coronavirus cases per 10,000 residents within southeastern Pennsylvania are Delaware County communities.); July 22, 2020, Section A, p. 1 (“Pennsylvania is reporting an average of 871 cases per day, an increase of 120% from June 19, following a two-month decline.”); July 23, 2020, Section A, pp. 1, 9 (Delaware County's seven (7) day average of newly reported cases has increased 220% since June 27, 2020.); July 29, 2020 Section A, pp. 1, 6 (Since June 27, 2020, the daily average of new cases has increased 379% growing from 16 to 75.); July 30, 2020, Section A, p. 6 (“Delco count rising fastest in area[.] ... The county has gone from an average of 15.7 new cases a day on June 27 to 78.3 new cases a day on Tuesday - an increase of 398% ‘We are concerned with what we have seen from Delaware County,’ ... Nate Wardell, a spokesperson from the state Health Department, said... .”); August 14, 2020, Section A, p. 1 (“... Pennsylvania Health Secretary ... cited ... Delaware Count[y] as [an] area[] in the state with high community spread of the coronavirus. Delaware County's per capita rate of new cases now exceeds that of Philadelphia, Allegheny County, and the state as a whole.”); August 20, 2020, Section A, pp. 1, 3 (“... Delaware County currently has the highest [COVID-19] rate [per 100,000 residents] in the region. ...”); October 7, 2020, Section A, 1, 8 (“Pennsylvania ... [is] entering October with coronavirus case levels at the highest they have been since the encl of spring Since the end of August, the average number of new coronavirus cases reported each day nearly doubled in Pennsylvania”); October 8, 2020, Section A, p. 9 (“... [S]ince the end of August the average

number of new coronavirus cases reported each day nearly doubled in Pennsylvania Compared with a month ago, average new cases a day have jumped by more than 400 in Pennsylvania, surpassing 1,000 per day last week”); October 11, 2020, Section B, p. 2 (“Pa. virus cases hit 6-month high ... Pennsylvania reported its highest number of confirmed coronavirus infections in six months”); October 13, 2020, Section B, pp. 1, 8 (“The average number of new coronavirus infections being diagnosed in Pennsylvania ... showed no signs of slowing, even after warnings last week from officials advising the public to double down on safety practices. ... The Commonwealth was averaging 1,300 new cases a day over the last seven days Delaware [C]ount[y] [has] seen [a] rise[] in recent days. Using 14-day totals of new cases per 100,000 people, ... Delaware County went from 94 to 125”); October 16, 2020, Section A, p. 8 (“Pennsylvania reported 1,598 new coronavirus cases, the highest one-day count since April 24 and the 10th, day in a row new cases have exceeded 1,000. The commonwealth is now averaging 1,370 new cases a day, the highest daily average since April 14, right after the pandemic's first peak.”); October 23, 2020, Section A, p. 8 (“... Delaware ... Count[y] ... [has] more than 2,000 per 100,000 residents, well above the threshold the state deems safe.”); October 29, 2020, Section A, pp. 1, 3 (“Pennsylvania's fall coronavirus surge has surpassed the state's April peak in new cases, the rising metrics continued sounding alarm bells on a day when Pennsylvania's average daily number of new cases rose above 2,000 for the first time during the pandemic,”); November 5, 2020, Section B, pp. 1, 9 (“The coronavirus pandemic continued to escalate across the region daily increases are now even higher than in the springtime peak. ... [A]n infectious disease specialist ... said in an interview that the trends are dangerous, an expert's fear worse is to come.”); November 6, 2020, Section B, pp. 1, 4 (“As new coronavirus cases in Pennsylvania ... soar past levels that prompted shut downs in the spring the Pennsylvania Department of Health on [November 5, 2020] reported an unprecedented daily increase of ... COVID-19”); November 8, 2020, Section B, pp. 1, 4 (“Over the last four weeks, rates of new known coronavirus cases have at least doubled in ... every county in the Philadelphia area.”); November 10, 2020, Section B, pp. 1, 3 (“At the pandemic's eight month mark, Pennsylvania is in the midst of a streak of about 3,000 cases a day in the Philadelphia region, Delaware County has the highest positivity rate of 7.6%”); November 12, 2020, Section B, pp. 1, (“A second pandemic wave is ... in the region nearly nine months after the forced shutdowns Hospitals in Delaware County in recent days became so inundated with COVID-19 that they are turning away ambulances”); November 13, 2020, Section A, pp. 1, 6 (“All five of Delaware County's hospitals were at capacity earlier this week and had to divert patients Pennsylvania reported that it had received 5,488 new positive-test results and for the first time in the pandemic it averaged more than 4,000 cases a day in the seven-day period In Delaware County, cases are close to where they were at the spring pandemic peak”); November 16, 2020, Section B, pp. 1, 5 (“Pennsylvania's daily average has increased every day since mid-October, but in November the number has soared.”); November 17, 2020, Section A, pp. 1, (“With nearly 10,000 new infections reported in Pennsylvania between Sunday and Monday ... leaders across the region urged renewed intensity in the face of pandemic fatigue... . The statewide positivity rate has increased to 9.6% from 6.8%”); November 18, 2020, Section A, pp. 1, 6 (“Pennsylvania's top health official issued a broader mask mandate, a bid to force people to wear face coverings as coronavirus case numbers continue to soar over the last four weeks rates of new known coronavirus cases have at least tripled in every county in the Philadelphia area.”); November 20, 2020, Section A, pp. 1, 10 (“ ... [T]he coronavirus [is] spreading faster than ever, Pennsylvania reported more than 7,000 new cases Thursday, breaking its record for the third straight day. In just two weeks, Pennsylvania has gone from an average of 2,500 new cases a day to 5,700 cases a day ‘The county has now exceeded the highest number of COVID-19 outbreaks since the height of the pandemic.’ ”); December 4, 2020, Section A, p. 1 (“Pennsylvania shattered its record for coronavirus cases logged in a single day by a staggering amount ... , reporting more than 11,000 new infections All but eight of Delaware County's ICU beds were filled, state data showed.”); December 10, 2020, Section A, pp. 1, 6 (“Pennsylvania officials have been considering a new statewide ban on indoor dining and mandatory closures of gyms and casinos, their most stringent steps this fall to combat soaring coronavirus cases and hospitalizations, Pennsylvania's seven-day average of new cases per date neared 10,000 on Wednesday”); December 11, 2020, Section A, pp. 1, 6 (“Until Jan. 4, Pennsylvania will shut down indoor dining, suspend school sports and extracurriculars, close all casinos, gyms, and other entertainment venues, lower retail occupancy limits, and sharply reduce the number of people allowed to gather in one place The new restrictions come at a point when the state's daily case numbers have sky rocketed with more than 10,000 people newly infected each day for five out of the last eight days,”); December 16, 2020, Section A, pp. 1, 14 (“ ... Pennsylvania reported its highest single-

day death toll from COVID-19 since May and said nearly 6,300 virus patients were hospitalized across the commonwealth, twice the total from the same point last month. Pennsylvania surpassed 500,000 confirmed cases of the virus, reporting 9,556 new cases.”); January 9, 2021, Section A, pp. 1, 5 (“For the first time since mid-December, Pennsylvania on Friday reported more than 10,000 newly confirmed positive cases Over 700,000 Pennsylvanians have tested positive for the virus,); and January 15, 2021, Section A, pp. 1, 2 (“January is on pace to become Pennsylvania’s deadliest month of the pandemic, It is a continuation of a surge that has seen more than 8,300 Pennsylvanians reported dead since Dec. 1, With the case surge not over yet, the death toll will keep growing; Philadelphia, its Pennsylvania’s suburbs, ... have all experienced surges in the death toll since the end of November,”). *See additionally* Orders dated March 16, 2020; March 18, 2020; March 24, 2020; April 1, 2020; April 28, 2020; and May 27, 2020 – Pennsylvania Supreme Court, Nos. 531 and 532, Judicial Administration Docket; Emergency Declaration dated March 17, 2020; Order Extending Emergency Declaration dated April 2, 2020; Second Order Extending Emergency Declaration dated April 28, 2020; Third Order Extending Emergency Declaration dated May 27, 2020; Fourth Order Extending Emergency Declaration dated July 8, 2020; Fifth Order Extending Emergency Declaration dated October 20, 2020; and Sixth Order Emergency Declaration Extension dated January 22, 2021.

⁶ Generally, defendants may report for purposes of partial confinement sentences to the George W. Hill Correctional Facility on any day of the week, although there are daily reporting times which are to be followed, absent judicial direction to the contrary.

Recognizing that the vast majority of sentences flow from negotiated guilty pleas and wanting to the extent possible during this public health crisis to yet realize the sentencing judges’ intentions and the interested parties agreements, county jail personnel in providing defendants written notice of when next to report to the facility **SHALL** use the same day of the week and time the controlling certificate of imposition of judgment of sentence directs.

⁷ *See* Endnote No. three (3).

⁸ *See* Orders dated March 16, 2020, p. 2; April 1, 2020, pp. 2-3; April 28, 2020, p. 3; and May 27, 2020 p. 2, Fn. 1 - Pennsylvania Supreme Court, Nos. 531 and 532, Judicial Administration Docket.