

MUNICIPAL COURT, Town of Eagle, Colorado 200 Broadway, Eagle, CO 81631	
THE TOWN OF EAGLE, BY AND ON BEHALF OF THE PEOPLE OF THE STATE OF COLORADO,	▲ COURT USE ONLY ▲
	Administrative Order 2020-1
ADMINISTRATIVE ORDER REGARDING COVID-19 AND MUNICIPAL COURT	

Under Declaration by the Eagle Town Mayor and the City Manager, all non-essential services of the City have been suspended. The town hall facilities, including the courtroom, are closed. The suspension of services may be extended or re-enacted due to the concerns and public safety surrounding COVID-19.

Accordingly, the Eagle Municipal Court cannot function as regularly scheduled.

I. COURT CLOSURE

The Eagle Municipal Court shall be closed until June 17, 2020. If the public health emergency continues, the court shall reissue orders as appropriate and court proceedings scheduled for June 17, 2020 shall be rescheduled as necessary.

During the Court closure, the Municipal Court clerk shall attempt to reschedule cases by calling, email or by regular mail.

People who prefer to pay their fines and fees in person must set a procedure with the Court Clerk's Office via telephone and email. Those persons are requested to drop payments in the drop box if possible. Receipts and associated documents can be emailed in return.

Payments can also be made over the phone or on line at *CitePay* as directed by the Town of Eagle website.

People may choose to make a plea may do so on the Eagle Municipal Court website and pay by credit card. The plea by mail option is encouraged for cases that allow such an option.

The office of the prosecutor shall continue to try to reach dispositions via telephone, regular mail and email. The court clerk shall set disposition hearings as appropriate in July and August, 2020.

Defendants who have a payment due date prior to June 17, 2020 are hereby granted a 90-day extension.

2. TRIAL SETTINGS

Any trials that have been set during the mandated closure will be required to be reset.

The preference is to reset any trial within the previously determined Speedy Trial date; However, rescheduling the trial within the original 91 day speedy deadline may not be possible for every case.

IT IS ORDERED that:

- (a) Trials that have been set during April 2020 are to be rescheduled to dates after June 17, 2020, bond will continue to the new trial date;
- (b) Parties to the above-referenced trials are to be contacted to arrange a mutually acceptable trial date; and
- (c) The court clerk shall recalculate new Speedy Trial deadlines that exclude the court closure time.

3. SPEEDY TRIAL ISSUES

(a) General Considerations

The Court recognizes that it is the duty of both the prosecution and the trial judge to secure and protect the defendant's right to a speedy trial. *People v. Colantonio*, 196 Colo. 242, 583 P.2d 919 (1978); *ref.* II ABA Standards for Criminal Justice, Standard 12-1.2 (2d ed. 1980).

ABA Standard 12.2.3 provides for exclusion of time periods within the Speedy Trial calculation:

“(vi) other reasonable periods of time when circumstances warrant exclusion of the time upon good cause shown or upon a determination

by the court that the interests of justice served by excluding a period of time from the speedy trial time limit outweigh the defendant's right to have the trial held within the originally prescribed time limits. No period of delay resulting from a continuance granted by the court in accordance with this paragraph should be excludable unless the court sets forth, in the record of the case, its reasons for finding that the interests of justice served by the granting of the continuance outweigh the defendant's right to have the trial held within the originally prescribed time limits."

(b) Statutory and Procedural requirements

The Colorado Municipal Court Rules (C.M.C.R.) provide that for good cause, and within the discretion of the court, deadlines may be enlarged which would include setting trials outside of Speedy Trial:

RULE 245 TIME, PART (B) ENLARGEMENT.

When an act is required or allowed to be performed at or within a specified time, the court for cause shown may at any time in its discretion:

- 1. Upon motion, with or without notice, order the period enlarged if application therefore is made before expiration of the period originally prescribed or of that period as extended by a previous order....**

This rule is the mechanism to preempt the other general rules for timing when necessary, such as:

(a) Delays attributable to the court or the prosecutor that result in a trial date that falls past the applicable speedy trial deadline require the dismissal of charges against the defendant. C.M.C.R. 248(b).

(b) Delays attributable to a defendant, may result in a resetting of the speedy trial statute or in an excludable period of time for the purposes of calculating the speedy trial period. C.M.C.R. 248(b). *See* § 18-1-405(6)(f), C.R.S. (2010); *People v. Fetty*, 650 P.2d 541, 544 (Colo.1982).

THE COURT FINDS that the delay caused by the public health emergency is not due to fault of any party. The public health emergency is outside and beyond the control of the government, Town of Eagle, the court, or any party.

THEREFORE, any trial that is set during the closure that would under the Colorado Municipal Court Rules of Procedure ("C.M.C.R.") shall be rescheduled for good cause, i.e., the public health emergency.

In addition, Colorado statute §18-1-405, C.R.S. sets forth an exception for unavailability of evidence. Accordingly, if witnesses, court staff and the courtroom facility are not available due to a public health emergency, such an exception arises under the statute.

Moreover, the Colorado Attorney General, on March 23, 2020 confirmed the public health emergency fits under this exception and so recommended that courts follow the associated safety recommendations.

(c) Constitutional requirements.

The Sixth Amendment to the United States Constitution and article II, section 16 of the Colorado Constitution guarantee an accused the right to a speedy trial. In addition, the defendant's constitutional right to a speedy trial is fortified by section 18-1-405, 8B C.R.S. (1986 and 1987 Supp.), Crim.P. 48(b) and C.M.C.R. 248(b), which were intended to clarify and simplify the parameters of the constitutional right. *Carr v. District Court*, 190 Colo. 125, 543 P.2d 253 (1975).

Whether a defendant has been denied his right to a speedy trial under the United States or Colorado constitutions is determined by applying a four-factor *ad hoc* balancing test. *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed. 2d 101 (1972) (U.S. Const. amend. VI); *People v. Small*, 630 P.2d 148 (Colo.1981) (Colo. Const. art. II, § 16). In weighing these factors, the defendant has the burden of proving his constitutional right to speedy trial was denied. *Small*, 631 P.2d at 154. The four factors are: the length of delay, the reason for the delay, the defendant's assertion or demand for a speedy trial, and prejudice to the defendant.

On appeal, the determination is made by considering all the factors together with any other relevant circumstances. (ie. Public emergency, closure of court), *Barker*, 407 U.S. at 533, 92 S. Ct. at 2193; *Small*, 631 P.2d at 154.

The U.S. and Colorado Supreme Courts have held that the constitutional right to speedy trial is not based on mere speed. *United States v. Mario*, 404 U.S. 307, 92 S.Ct. 455, 30 L.Ed. 2^d 468 (1971); *Small*, 631 P.2d at 154. The criminal proceedings must be handled in a manner consistent with the court's business. *Barker*, 407 U.S. at 522, 92 S. Ct. at 2187; *Marion*, 404 U.S. at 313, 92 S. Ct. at 459; *Small*, 631 P.2d at 154; *People v. Mayes*, 178 Colo. 429, 432, 498 P.2d 1123, 1125 (1972). A delay consistent with the constitutional right to speedy trial is not a set period of time, as is the case where one is dealing with the time requirements set out in statutes and court rules. *Small*, 631 P.2d at 154. See § 18-1-405, 8B C.R.S. (1986 & 1988 Supp.); Crim.P. 48(b). See, *People v. Chavez*, 779 P.2d 375 (Colo. 1989).

THE COURT FINDS that As of the date of this Order, there are two trials set, though other cases may be affected if the Order is extended.

IT IS ORDERED that Notice resetting trials affected by the closure will be sent to each Defendant and the Prosecutor consistent with the instruction in section 2 above. Any subpoenas for witnesses will need to be reserved as they will not be present before Court to be continued on the record.

Defendants who fail to contact or respond to the Court to reset, fail to make pleas online or by mail are subject to have either warrants issued or have their traffic infraction cases receive a default order.

Dated: March 25, 2020

By the Court



Erik Johnson
Municipal Judge