

COURT EN BANC MINUTES
Tuesday, August 25, 2020, at 5:00 p.m.
Zoom Video Conference

Judges Present: Judges Kevin Crane, Jeff Harris, Joshua Devine, Kimberly Shaw, Carol England, Sue Crane, Tracy Gonzalez, Leslie Schneider, Stephanie Morrell, Commissioners Sara Miller and Casey Clevenger.

Others Present: Boone County Circuit Clerk Christy Blakemore and Unit Manager Sherry Seiling, Callaway County Circuit Clerk Megan Morse, Adult Court Services Supervisor Brandon Walker, 13th District Defender Sarah Aplin and Assistant District Defender Jeremy Pilkington, District Administrator Probation and Parole Jared Drummond, Assistant Prosecuting Attorney Jessica Caldera, Court Marshal Ben Pruett, Court Reporters Julia Paulus, Jenni Bosh and Stephanie Allen, Court Administrator Mary Epping and Deputy Court Administrator Cindy Garrett

1. Call to Order/Welcome

The meeting was called to order by Judge Kevin Crane at 5:00 p.m.

2. Introduction of Guests

Judge Kevin Crane welcomed guests.

3. Approval of the July 28, 2020 Minutes

Judge Kimberly Shaw moved to accept the July 28, 2020 minutes. Second: Judge Stephanie Morrell. The motion passed unanimously.

4. Court Costs and Violation Reports at End of Supervision

Probation and Parole District Administrator Jared Drummond said his office recently brought on a couple of supervisors from the Callaway County Probation and Parole office and found they were operating under different practices within the circuit. He believes there were prior conversations regarding earned compliance credit and individuals owing court costs at the end of their probation. Jared said according to probation and parole policy, unless there is an established local court rule, if costs are turned over to collection there will be no further violation reports submitted to the court. He understands if a defendant does not pay their costs, they are sent to a collection agency and probation and parole are therefore no longer responsible for monitoring this as the responsibility has been put on the collection agency. Judge Kevin Crane said his standard order says defendant not to be discharged until all costs, fees and restitution are paid in full. However, he understands probation and parole cannot do anything related to costs once they are sent to collection. Jared wanted to make sure the court is aware that with the standard order, by statute the defendant will not get earned compliance if restitution is

owed. Jared recommended if there are costs owed, that a payment plan be developed with the defendant at the time of sentencing which allows probation and parole to monitor those payments. However, as soon as the costs are sent to a collection agency, probation and parole will no longer consider that in determining violations or entitlement to earned compliance. Boone County Circuit Clerk Unit Manager Sherry Seiling said costs are automatically turned over to collection after 90 days of the due date of the payment plan. Jared said defendants will remain on probation until they reach their compliance calculation date. Jared said four months prior to the defendants' discharge date, their officers used to complete a final case summary report accompanied with a violation report, if the defendant owed fees. However, currently, the violation report will not be included but rather it will be noted in the final case summary report the amount of costs owed and the date costs were sent to collection.

5. Orders of Destruction

Deputy Court Administrator Cindy Garrett reported the Boone County Circuit Clerk's office has asked to destroy by shredding the documents on pages 4 & 5 of the Court en Banc's packet. Judge Leslie Schneider moved to approve the destruction of the records listed. Second: Judge Kimberly Shaw. The motion passed unanimously.

6. Senior Judge Bradley Handling Dockets

Judge Kimberly Shaw said Senior Judge Michael Bradley has agreed to assist with some of the backlog of cases due to COVID. With Judge Bradley's assistance, this allows two judges to be on the bench covering cases at one time versus one. Judge Shaw said the current docket schedule was reviewed to determine the best times for Judge Bradley to hear cases based on available courtrooms, court marshals and clerk staff. Judge Bradley has agreed to assist with some specific family court trials and to assume the Tuesday morning traffic and city dockets. This will allow Judge Shaw to hear a criminal out of custody docket on Tuesday morning versus Monday afternoons. Judge Josh Devine agreed to switch his Monday docket, hearing criminal in the morning and civil in the afternoon which allows Judge Shaw to have an additional contested in custody criminal docket on Monday afternoons. Judge Bradley has also agreed to assume in custody felony matters after arraignment. These cases will remain assigned to Judge Bradley, with him handling the bond hearings, preliminary hearings, motion hearings, confinement hearings, etc. If a matter assigned to Judge Bradley is placed on the Public Defender wait list, it will be returned to Divisions 5, 9 or 11. Judge Kevin Crane said Senior Judge Bradley will be in this capacity, hearing these cases through the end of 2020 and will be paid through COVID-related funds through OSCA. Judge Crane said to please thank Judge Bradley as you see him.

7. Zoom Court Conduct

Judge Sue Crane said when the court first starting court hearings over Zoom it was anticipated to be short term and people were given some leeway due to it being new. However, she finds she is spending time during the docket to deal with people who are

not appropriate in the video courtroom. She removed attorneys from the video court docket when they were driving and made a record of it. She believes there needs to be some baseline rules in place with regards to video court. Court Administrator Mary Epping said Judge Kimberly Shaw provided her with an Administrator Order from St. Louis County which laid out decorum rules and other video conferencing standards. It was requested that Mary send the St. Louis County order by email for all the judges to review in an effort for our court to create our own administrative order. There was discussion about the order having information about consequences for violating the decorum rules. It was requested this be placed on the next Court en Banc agenda.

8. Recent Jury Trial

Judge Kevin Crane held the first jury trial since COVID. Only one voir dire of 30 people was needed to select a jury. Judge Crane has a jury trial next week where he anticipates having three voir dires for a total of 90 people to select a jury. He staggered the times for the three panels in three-hour increments between each panel. He said one thing he did not anticipate in the first jury trial was the peremptory strikes and not knowing who is in your jury until the end of all the voir dire groups. For example, he said if there are two voir dires, you do strikes for cause on the first 30 group after voir dire. You then do strikes for cause after the second voir dire. However, the parties will not want to do their peremptory strikes until all the voir dire is over. Judge Crane recommends lunch for the jury be done in-house, with individual lunches for each juror. He said during voir dire shields were worn once seated and masks were allowed to be removed. He was not planning to force anyone to wear the shield versus mask. During testimony all witnesses removed their masks and wore a shield. Deputy Court Administrator Cindy Garrett said when jurors first arrived we completed temperature checks and jurors were directed to go to the third floor to check-in, then they went directly to courtroom where they were seated with social distancing in place. Once the jury was selected the panel was social distanced within and near the jury box. Judge Crane said he is currently not having jurors appear on a summons for contempt; however, he said if there is a flagrant individual that refuses to appear, he will have that person appear on a contempt summons after there is a vaccine. Judge Jeff Harris inquired about alternate sites for voir dire. Judge Crane said currently there have not been any sites designated as alternative locations although several locations have been discussed. Judge Crane believes the ceremonial courtroom is working well.

9. Jail Transport

Deputy Court Administrator Cindy Garrett reminded everyone that a judge must specifically order an inmate to be transported to court for a hearing or trial. Jail staff are near inmates for court hearings over Zoom and are taking notes regarding any orders for transport. The clerk also sends the jail the docket entries of criminal dockets after court as another method for checking if there are orders for inmates to be transported. Judge Kevin Crane said there was recently a case where a civil litigant was in custody and the judge wanted the litigant present however the jail was not notified. It was agreed that civil litigants do not have a right to appear if they are in custody. Judge Crane asked that

defendants appear by video and use all other alternative options prior to requesting a defendant be transported. Judge Stephanie Morrell said she spoke with Cpt. Keith Hoskins last week and he said jail staff are on mandatory overtime due to being short staffed. He is asking for as much notice as possible for transports to allow them time to figure out staffing.

10. Posting Daily Dockets on 13th Circuit Website

Court Administrator Mary Epping shared her screen of the 13th Circuit's website, showing if you click on dockets, there is a printout of cases set. Mary said by human error, this page had stopped being updated. Mary wanted to know if this is an important aspect of our website, as this information is also available on Case.net. It was agreed we should discontinue including this on the website. Mary said she and IT Supervisor Chris Fishman-Weaver are seeing if they can get Google analytics to see what pages people are accessing on our website. Circuit Clerk Christy Blakemore advised the docket on Case.net is not in the same order as the docket printed for the courtroom.

11. Alcohol/Drug Related Traffic Report

Deputy Court Administrator Cindy Garrett presented the Municipal Court semi-annual report for January through July, 2020, on intoxication-related offenses as set out on page 6 of the Court en Banc's packet. Cindy indicated the two stand-alone municipal courts continue to file these cases. She said Centralia did not file any new cases, however they had two outstanding cases, one of which was disposed. The report was reviewed and no action was taken.

12. Other

Court Administrator Mary Epping said issues have arisen for the past few Department of Correction video dockets over Scopia technology. She said there was a meeting with court staff to attempt to address the issues. Some of the issues identified are courtroom technology and some are attorneys being unable to see or hear the court or DOC facilities. Mary provided two suggested recommendations. Option 1 – IT Supervisor Chris Fishman-Weaver would create a checklist for attorneys, which would include them doing a test run with Scopia and ensuring the attorneys have the updated plug ins on their devices. Option 2 – Require attorneys to be in person for the DOC video docket. Boone County Circuit Clerk Christy Blakemore said the testing puts a lot more work on our IT staff. Callaway County Circuit Clerk Megan Morse said there have been days where attorneys are on with no problem; however, the following day the same attorneys have problems connecting. Judge Jeff Harris said he will not require attorneys to appear in person as he will not be in person. Mary said she is on a statewide video conference committee and they are discussing DOC using WebEx in the near future instead of Scopia. It was agreed staff will work with attorneys to ensure they have the ability to connect to Scopia. Judge Crane said if attorneys are unable to appear by Scopia, they should appear in person in the courtroom.

Judge Stephanie Morrell inquired about an update for contracting with counsel to represent defendants' who do not qualify for the public defender as their offense is a misdemeanor that will not likely result in confinement. Court Administrator Mary Epping said when a previous inquiry was sent out in February/March for representation of a docket, there was only one attorney who voiced an interest. She said she will meet with judges to determine the potential number of cases and anticipated costs.

Judge Morrell said she also understood the public defender was going to update their form, however the form being submitted shows a defendant is not indigent and they do not qualify because of a misdemeanor. She said they need to know if the client is indigent and if the public defender has determined they do not qualify for services due to the misdemeanor offense. 13th District Defender Sarah Aplin said she has made changes to the form; however, the new form has not been implemented. She said she has changed the title of the form to indicate indigency and eligibility and added a category to make the finding clearer. She anticipates the new form will be implemented soon.

13. Comments from the Public

Assistant Prosecuting Attorney Jessica Caldera asked if the court would be returning to Monday Law days. She understood it was switched due to multiple judges needing the video feed at the jail; however, currently it appears Fridays seem to be a problem waiting for a jail video feed. She requested to return to Mondays as it is a challenge for their office to have all the dockets staffed. Judge Kevin Crane said we will review the schedule.

14. Next Meeting Date

The next meeting is scheduled for September 29, 2020 at 5:00 p.m. in the Ceremonial Courtroom of Boone County. Judge Carol England moved to adjourn. Second: Judge Stephanie Morrell. The motion passed unanimously. The meeting adjourned at 6:01 p.m.

Prepared by:


Cindy Garrett
Deputy Court Administrator

Submitted by:


Mary Epping
Court Administrator

Distributed on:

9/25/20