

Supreme Court of Kentucky

2012-12

ORDER

In Re: Emergency Suspension of 12-hour time restriction imposed by RCr 4.20(1)

Section 1. Statement of Purpose

Over the past four years, Kentucky's Judicial Branch has experienced reductions of unprecedented proportions to its operating budget. The Court of Justice has cut 282 employees statewide, eliminated court programs, and trimmed operating costs at all four levels of the court system to stay within budget. Most recently, with final passage of HB 269, the Kentucky General Assembly reduced the total funds available to the Judicial Branch by \$25.2 million for Fiscal Year 2013, which includes a permanent reduction to the annual base operating budget of \$16.2 million and a one-time transfer of \$9 million in payroll to the state's general fund. These latest reductions profoundly affect the daily operation of the Judicial Branch. The situation for Fiscal Year 2014 is similarly bleak, with a projected \$29.7 million deficit in court operations.

At the same time, the implementation of HB 463 (2011) has resulted in a sharp increase in the supervisory caseload for Court of Justice Pretrial Officers. From June 8, 2011, to October 1, 2012, pretrial officers supervised an additional 1,100 defendants and made an additional 36,733 defendant

contacts as part of the supervision required for those on monitored conditional release and diversion. Additionally, during this period, a significant number of pretrial officers left for higher-paying jobs, resulting in a high turnover rate and a less-experienced workforce.

Currently, pretrial officers in urban areas operate twenty-four hours a day, seven days a week, in three shifts daily. In rural areas, officers work split shifts (morning and evening). However, the budget reductions, increased supervisory caseloads, and loss of experienced personnel compel the Division of Pretrial Services to concentrate its efforts and use its workforce in shifts that reduce travel and are more conducive to retaining staff. As such, extraordinary circumstances require adoption of this Order, which is intended to ease the 12-hour restriction imposed upon pretrial officers by this Court with respect to the performance of their duties under RCr 4.06.¹

Section 2. Statement of Authority

Section 116 of the Kentucky Constitution, gives the Supreme Court authority to promulgate rules and issue orders of practice and procedure for the administration of justice in all civil and criminal actions, and for all proceedings in the courts of this Commonwealth. This Order does not abridge, enlarge, or modify the substantive rights of any litigant.

¹ Kentucky is currently the only state with a pretrial program that requires a specific time frame in which officers must conduct an investigation. The federal system operates under *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), a U.S. Supreme Court case that requires probable cause to be determined within 48 hours of a warrantless arrest.

Section 3. Suspension of the 12-Hour Rule, RCr 4.20(1)

Beginning at 12:01 a.m. on October 21, 2012, the 12-hour time restriction imposed by RCr 4.20(1) is suspended. Beginning at 12:01 a.m. on October 21, 2012, the period of time in which pretrial officers are required to present information to a judge or trial commissioner to assist the determination of pretrial release and supervision is governed by Administrative Procedure Part XIV, Section 2.

This Order shall be effective at 12:01 a.m. on October 21, 2012, and until further Order of this Court.

Minton, C.J.; Abramson, Cunningham, Noble, Scott, and Venters, JJ., sitting. Minton, C.J.; Abramson, Cunningham, Noble, and Venters, JJ., concur. Scott, J., dissents and would not amend the twelve-hour rule. Schroder, J., not sitting.

Entered this 17th day of October, 2012.


CHIEF JUSTICE