

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ) Helena, MT – via Virtual Meeting Room/Telephone March 20, 2020

Members Present: None

Members Participating Via Telephone or Video: Hon. Perry Miller, Hon. Steve Bolstad, Hon. Steve Fagenstrom, Hon. Holly Frederickson, Charlie Harball, Mary Ann Ries, Hon. Heidi Ulbricht, Hon. Jim Rice, Hon. Kelly Mantooth, Tina Reinicke, Hon. Jessie Connolly and Peggy Tonon.

Members Absent: Peter Ohman

Staff Present: Shauna Ryan

Guests: None

Judge Miller called the meeting to order at 8:35 a.m.

PUBLIC COMMENT: None.

OLD BUSINESS:

Minutes

The minutes from the meeting on January 17, 2020, were reviewed. Charlie Harball moved that the minutes be approved. Mary Ann Ries seconded the motion and it carried unanimously.

NEW BUSINESS:

Coronavirus and COLJ Conference

Judge Miller asked Justice Rice to comment on the recent mandates from Chief Justice McGrath on non-essential hearings, meetings, travel, etc. Justice Rice reported that he floated the idea to the Court to postpone or eliminate the spring conference. The justices were very open to it. There was a question about whether there were any alternatives we could pursue through an online format or a webinar, but that may be met with too many hurdles at this point. The Court is very understanding of the situation and would no doubt issue an order waiving continuing education for the time being. Judge Miller stated many have considered a postponement which would be almost impossible. Attempting to pick a date that would work for the judges and presenters as well as securing hotel space would be quite a challenge on short notice. Do we send a memo to the Supreme Court requesting that the court eliminate the school for the spring due to the current pandemic? Justice Rice thought that would be fine – something simple – an email would even work. He suggested saying something along the lines that the Commission has met and considered the request from the Court Administrator's Office that the conference be canceled and would ask the court to consider issuing an order implementing that and waiving the continuing education requirements for now. Judge Miller reiterated that in order to postpone or try to do anything by webinar or video in this short window of time that we currently have is slim to none. Shauna Ryan agreed with that assessment. The Court's IT staff is very overwhelmed with the remote access issues

currently and to try to get 115 judges that have differing levels of computer expertise would prove to be a significant challenge. Shauna suggested moving the spring conference agenda to the fall. Any money paid thus far for conference fees would just be credited to those judges for the fall conference. Judge Bolstad was in favor of canceling the conference and waiting until fall to meet again. Many of the tickets processed by his court are being written about 60 days out for an appearance. So, canceling is the best option for them because in 60 days the court will be swamped. Judge Fagenstrom felt canceling the conference is the only logical option. Judge Mantooth was in favor of canceling the conference and moving everything to the fall. Mary Ann Ries agreed and commented that courts are going to be scrambling once they are back in business. Logistically with all the rescheduling of court hearings, canceling the conference would take pressure off the judicial system which is important to consider right now too. Judge Connolly concurred with everything said and felt canceling is the only option along with having the training requirement waived. Peggy Tonon agreed as well and felt there was no option but to request a cancelation and waiver from the Court. Tina Reinicke was in favor of canceling the spring judges conference. Charlie Harball, Judge Frederickson and Judge Ulbricht were all in favor of canceling too. Judge Mantooth made a motion to cancel the spring conference with the request that the Supreme Court issue a one-time waiver of the training requirements and that the presentations currently planned for spring be moved to the fall conference agenda. Charlie Harball seconded the motion and it carried unanimously. Shauna Ryan will work with Judge Miller to craft a memo to the Court with the Commission's request. In the interim, Judge Frederickson agreed to provide a brief update on the judge's listserv as to status of the conference. Once the Court issues an Order, Shauna Ryan agreed to send it out to the judges via email.

Guidance from the SC on Proceeding Legally When Courts are Closed Due to Short-Term Emergency (active-shooter, bomb threat, etc.) and Long-Term Closures (pandemic)

Tina Reinicke sent an email to the Commission requesting some guidance on handling court business when the court is closed due to an emergency. The city hall in Missoula will close on Monday. Missoula municipal court has set up a remote worksite in a separate building so that if they close city hall due to contamination, that they can still conduct jail video. They are using 100% video conferencing except for when an attorney is videoconferencing – the defendant may call in. One of the biggest challenges is how to continue moving forward with the orders of protection hearings. Yesterday, they were still required to have bodies in the courtroom. This is a big deal in Missoula and will go on this way for a while. Judge Miller said they are going to limit public access to the courthouse utilizing mediums where people can contact the offices through video and the necessary paperwork will be distributed in a way that limits human contact with folks. Judge Bolstad stated that the fact he passed along the Chief Justice's memos to the commissioners and city manager has helped as they understand that the limited courts answer to a higher power. Judge Miller did the same thing. Judge Miller asked Tina if they had been receiving the Supreme Court's memos as well as the federal court memos. Tina indicated she has received those and forwarded them to her local government as well. Folks are working from home where necessary. Judge Bolstad asked Tina if Missoula Municipal Court closed when Missoula had the active shooter. Tina indicated that the city closed the entire downtown, including the building housing the municipal court. Employees were locked in place which was a bit confusing as they didn't communicate with anyone inside the building. The training that has occurred in Missoula over the last five years is "run, lock, fight". So, staff was questioning why they were sitting inside the building. Judge Bolstad asked Justice Rice if there was any chance the Court could provide direction on what to do in the future if that happens? Justice Rice didn't know that the Court would be inclined to issue anything formally just because there are so many different situations – it would be hard to impose a rule. The general rule is that courts attempt to stay open. If problems arise with local governments, the Court will need to deal with it on a case by case basis. Judge Frederickson reported that in Liberty County, all elected officials are still working, whether they choose to work remotely or not. The doors to the city/county building are locked, however. In order to have any business folks are required to call and make an appointment. If any employee there has small children, or is over 60 years old, or has a compromised immune system, the employee can choose not to work and go on paid administrative leave.

Inquiry from S.K. Rossi, ACLU of Montana, regarding DL Suspensions by Courts

Ms. Rossi has asserted a lack of fairness in certain jurisdictions as to the court's suspension of driver's licenses for failure to pay. After numerous requests, Ms. Rossi has failed to indicate the specific courts and what the specific impropriety might be. Tina Reinicke responded to Ms. Rossi's assertions regarding Missoula County Municipal Court. In Missoula, they automatically reinstated every driver's license they had suspended for failure to pay, without petition. That started the day the Supreme Court Order came down. They then decided to discontinue suspending drivers' licenses in January 2019. They do continue to run the automated processes that would suspend drivers' licenses. On February 27, 2020, they made the decision to start suspending again. They announced that at the March 5, 2020, automation committee meeting. The reason that they stopped suspending drivers' licenses in January 2019 was because the State was so far behind in suspending and reinstating – people were paying the State the money to get their driver's license reinstated – but because the State had not yet suspended they were holding that money in escrow. They would then suspend the license, take the fee, and reinstate. Judge Jenks was not certain if that was legal, so they stopped suspending drivers' licenses for failure to appear. They had suspended drivers' licenses for failure to *comply*, but other than that she would request Ms. Rossi to provide the exact cases she's referencing. In Missoula, they have every hearing recorded and is happy to provide those to anyone who wants to listen. On March 16, 2020, they stopped suspending drivers' licenses again. Judge Miller said they did ask the legislature to defeat the bill and not take away a judge's opportunity to suspend driver's license for failure to pay – absolutely. But the bottom line is that once the law was passed, everyone climbed on board with it. Judge Miller asked if anyone else had been made aware by any of their constituents that the courts are mishandling the suspension of driver's licenses by doing it for failure to pay? No one else on the Commission had been made aware of any issues. The Commission is not going to take any action until Ms. Rossi provides more specific information.

Request for Waiver of Training for Spring COLJ Conference

Judge McEuen – Due to the impending cancellation of the Spring COLJ Conference, Judge McEuen's request is moot. Peggy Tonon will contact Judge McEuen once the official order from the Court comes down.

Adjourned: The meeting adjourned at 9:40 a.m.

Next Meeting Date: The next meeting will be Friday, April 24, 2020, at 8:30 a.m. in Helena.

May 23, 2022