

**FILED**

January 19, 2021

SAN JUAN COUNTY, WASHINGTON

LISA A. HENDERSON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF SAN JUAN

IN THE MATTER OF THE RESPONSE BY	)	No. 20-2-05001-28
SAN JUAN COUNTY SUPERIOR COURT TO THE	)	SUPPLEMENTAL
PUBLIC HEALTH EMERGENCY IN	)	EMERGENCY ORDER
WASHINGTON STATE AND SAN JUAN COUNTY	)	No. 2021 – 1
_____	)	RESUMPTION OF JURY
		TRIALS

This matter comes before the Court on the public health emergency in Washington State and San Juan County.

The Court reiterates its findings entered in its Emergency Order entered March 16, 2020 and corrected March 18, 2020, its First Amended Emergency Order entered March 20, 2020, its Second Amended Emergency Order entered April 23, 2020, its Third Amended Emergency Order entered July 2, 2020, its Fourth Amended Emergency Order entered October 6, 2020, and its Fifth Amended Emergency Order entered November 20, 2020. In addition, the Court finds:

Close in time to entry of the Fifth Amended Emergency Order, San Juan County experienced significantly higher rates of COVID transmission than previously experienced during the pandemic, reaching a transmission rate of 116.6 cases per 100,000 people over a 14-day period locally.

After Thanksgiving transmission rates decreased substantially, but then increased again during December.

The previous emergency order postponed jury trials to after January 15, 2021, in the hopes that that would allow sufficient time to observe and to respond to any increase in transmission rates after the December holidays.

Both the Superior Court and District Court of San Juan County have conferred with the San Juan County Department of Health and Community Services and San Juan County Health

Officer Dr. Frank James regarding current and projected COVID risks in San Juan County in relation to resuming jury trials, and have consulted statewide guidance from the State Department of Health. We also are monitoring the rates of transmission as represented on the Washington State Coronavirus Response COVID-19 Risk Assessment Dashboard.<sup>1</sup>

Our local health authorities indicate that we have not yet seen the peak increase in transmission rates following holiday travel, and that we may not see that peak for approximately one month.

While San Juan County remains at a lower rate of transmission compared to other jurisdictions across the state, the unconfirmed 14-day rate of transmission between January 1-14, 2021 is 87.5 per 100,000. Further, the nearby counties that make up our region—Skagit, Island, and Whatcom—each have substantially higher rates of transmission over 14 days, with Skagit at 310.4 per 100,000 confirmed between December 22, 2020 and January 4, 2021, Island at 136.8 per 100,000 confirmed between December 22, 2020 and January 4, 2021, and Whatcom with a confirmed transmission rate of 272.5 per 100,000 between December 22, 2020 and January 4, 2021, but an unconfirmed 14-day transmission rate of 467.4 between January 1-14, 2021.

The San Juan County Department of Health and Community Services has suggested that one metric to consider as an acceptable level of risk for resuming in-person jury trials (and that recommended for schools to transition to in-person attendance for all students) is when the 14-day rate of transmission decreases to 50 cases per 100,000 people or less as an average in our region (San Juan, Island, Skagit, and Whatcom counties).<sup>2</sup> As of January 18, the confirmed rate for that region for December 22, 2020 through January 4, 2021 is 249.1 and the unconfirmed rate for that region from January 1-14, 2021 is 338.5.

The regional data regarding COVID transmission is of particular importance to San Juan County, both because small changes in numbers in San Juan County alone can cause dramatic swings in our local rate of transmission, and because we rely heavily on medical services located in the surrounding counties of Skagit, Island, and Whatcom, particularly hospital and ICU beds.

It remains likely that we will see substantial additional transmission in San Juan County beyond January 19. The amount of increased transmission depends in part on the rigorousness of

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<sup>1</sup> <https://coronavirus.wa.gov/what-you-need-know/covid-19-risk-assessment-dashboard>

<sup>2</sup> [www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/DecisionTree-K12schools.pdf](http://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/DecisionTree-K12schools.pdf)

contract tracing in other counties. Our transmission rates will also be influenced by outbreaks and transmission trends in other counties, such as the dramatic recent surge in new Whatcom County cases.

Despite our lower transmission rates, efforts to contain the recent increases have taxed our limited local resources. Our local health authorities indicate that further surges could overload our contact-tracing systems and burden our local healthcare resources beyond their capacity.

The actions set forth herein will take effect on January 19, 2021, and will remain in effect until further order of the Court, unless otherwise stated herein. If a date is stated herein, the date may be extended by further order of the Court.


NOW, THEREFORE, IT IS HEREBY ORDERED:

All CRIMINAL JURY TRIALS shall be CONTINUED to a jury term after February 26, 2021. Criminal jury trials may be scheduled starting March 2, 2021, consistent with the joint trial calendar shared by Superior Court and District Court or as otherwise instructed by the Superior Court Administrator. Due to: the current high rate of COVID-19 transmission in San Juan County, our surrounding region of Island, Skagit and Whatcom Counties, Washington State, and nationwide; recommendations by public health officials against in-person gatherings; the reduced ability to obtain an adequate number and spectrum of jurors; the inherent public health risk of sufficient numbers of potential jurors gathering for jury selection—particularly given high rates of transmission in our region and the remaining impact of holiday travel; the inherent risk to court staff, parties, counsel, witnesses, and the public of in-person jury trials currently, the time period from the effective date of Emergency Order No. 2020-1 (March 17, 2020) until the first hearing occurring in a given case after October 15, 2020, and the time period from November 20, 2020 through March 1, 2021, shall be excluded in computing time for trial pursuant to CrR 3.3(e)(3) and CrR 3.3(f)(2) and JuCR 7.8(e)(3) and JuCR 7.8 (f)(2). The Court further finds that the ends of justice served by continuing jury trials outweighs the defendant's right to a speedy trial. The Court further finds that any delays for time for trial are the result of the unavoidable and unforeseen circumstances and are therefore excluded from computing time for trial by CrR 3.3(e)(8) and JuCR 7.8(e)(7).

Supplemental Emergency Order No. 2021-1, Resumption of Jury Trials, replaces and supplants only Order Paragraph 1 in the Court's previous emergency order, the Fifth Amended Emergency Order. All other provisions of the Fifth Amended Emergency Order remain in full force and effect.

This Emergency Order may be modified or further extended consistent with ongoing assessment of the current public health emergency based on recommendations of San Juan County Department of Health and Community Services, Washington State Health Department, and other appropriate agencies and public health officials.

DATED this 19<sup>th</sup> day of January, 2021.

  
Presiding Judge Kathryn C. Loring