

**IN THE CRIMINAL COURTS FOR DAVIDSON COUNTY, TENNESSEE
SITTING EN BANC**

IN RE:)	
PETITION FOR IMMEDIATE)	
RELEASE FROM CUSTODY OF)	CC-5593
COVID-19 VULNERABLE AND)	
LOW-RISK INMATES)	

ORDER

This matter is before the Criminal Courts, sitting *en banc*, upon the petition filed by Martesha Johnson, Public Defender, on April 3, 2020, seeking immediate release of all inmates who are deemed particularly vulnerable to the Covid-19 virus as established by the Center for Disease Control and Prevention ("CDC"), all inmates charged with or sentenced to non-violent misdemeanors or Class C, D, or E felonies if the underlying felonies qualify for probation, all inmates being held on a probation violation warrant not alleging a new offense ("technical violation"), and all inmates serving a sentence whose expiration date is sixty days or less. The Office of the District attorney filed a response in opposition to the petition on April 7, 2020.

The Criminal Court Judges, meeting *en banc* via teleconference, having reviewed the petition and the response in opposition thereto makes the following findings:

1. The Criminal Court Judges are aware of and sensitive to the extraordinary burdens placed on the Sheriff's Department in fulfilling its constitutional and statutory requirements to provide a safe and healthy environment for persons incarcerated in the local jail in response to the Covid-19 pandemic.

2. The Criminal Court judges acknowledge that incarcerated persons, particularly persons 60 years of age or older and who have an underlying medical condition, are more vulnerable to the health risks associated with the Covid-19 pandemic.

3. The relief sought in the petition may, in many instances, be outside the jurisdiction of the Criminal Courts because the inmate is within the jurisdiction of the General Sessions Courts.

4. The petition does not identify any inmates within the jurisdiction of the Criminal Courts who would be affected if the relief sought were to be granted.

5. The automatic release of inmates described in the petition, without review of each individual inmate's past and present personal circumstances effectively asks the Criminal Court judges to abrogate their statutorily mandated duties and responsibilities in setting bonds and granting suspending sentences, including the issue of public safety.

6. The Criminal Court judges are aware that the District Attorney's Office has been proactive in reviewing and approving many requests for bond modifications, suspension of sentences, and resolution of alternative sentencing violations and that the matter can be set for an expedited hearing before the court where an agreement cannot be reached between the parties.

Based on the forgoing, the Criminal Court judges do not find that the broad emergency relief sought by the Public Defender is warranted under the circumstances. Therefore it is **Ordered** that the Petition be and is hereby denied.

It is further **Ordered** that the District Attorney General's Office continue to be proactive in reviewing and approving requests for inmate releases from jail where the inmate's court appearance and public safety is not a concern.

It is further **Ordered** the unprecedented health concerns created by the Covid-19 pandemic be given due weight and consideration in making the determination to agree to the release of inmates where appropriate.

It is further **Ordered** when an agreement cannot be reached involving the release of an inmate that it be set on the earliest docket available for review by the appropriate Criminal Court.

It is further **Ordered** that the provisions of this **Order** shall apply irrespective of whether the inmate is represented by the Public Defender's Office or appointed or retained private counsel.

Entered this 8th day of April, 2020

Steve Dozier w/permission
Hon. Steve Dozier, Judge
Division I

Jennifer Smith w/permission
Hon. Jennifer Smith, Judge
Division IV

Angelita Dalton w/permission
Hon. Angelita Dalton, Judge
Division II

Monte Watkins w/permission
Hon. Monte Watkins, Judge
Division V

Cheryl Blackburn w/permission
Hon. Cheryl Blackburn
Division III

Mark Fishburn
Hon. Mark Fishburn
Division VI

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing *En Banc* Order has been sent via electronic mail to Mr. Glenn Funk, District Attorney General, glennfunk@jis.nashville.org, and to Ms. Martesha L. Johnson, Metropolitan Public Defender, marteshajohnson@jis.nashville.org, this 8th day of April, 2020.

Mark J. Fishburn
Mark J. Fishburn, Judge