

IN THE MUNICIPAL COURT
_____ COUNTY, OHIO

STATE OF OHIO, :
 :
 PLAINTIFF, :
 :
 V. : CASE NO. _____
 : JUDGE _____
 _____, :
 Your Name :
 DEFENDANT.

DEFENDANT'S MOTION TO MODIFY SENTENCE

The Defendant pursuant to Ohio Revised Code §2929.24(H) respectfully requests that this Court substitute a community-control sanction for the remaining jail days on the misdemeanor sentence. The reasons for this Motion are further detailed in the accompanying Memorandum in Support.

Respectfully submitted,

Your Signature

Your Name

Your Address

City, State and Zip Code

Pro Se Defendant

MEMORANDUM IN SUPPORT

The Defendant pursuant to Ohio Revised Code §2929.24(H) respectfully requests that this Court substitute a community-control sanction for the remaining jail days on the misdemeanor sentence.

This Court “retains jurisdiction” over any misdemeanor sentence that includes a jail-term. O.R.C. §2929.24(H). When “the circumstances warrant,” this Court “may substitute one or more community control sanctions * * * for any jail days that are not mandatory jail days.” *Id.* Because the COVID-19 pandemic creates unique risks for incarcerated Ohioans that may spillover to create community risks, the current circumstances warrant modifying Defendant’s sentence to substitute community control sanctions for jail days. Such a modification serves both Defendant’s interest in remaining health and public health more broadly.

1. THE COVID-19 PANDEMIC IN OHIO

On March 9, 2020, Governor Mike DeWine announced that three people in Ohio tested positive for COVID-19 and declared a state of emergency.¹ Two days later, Governor DeWine announced the existence of COVID-19’s community spread in our State and further restricted large gatherings of Ohioans.² Dr. Amy Acton, the director of Ohio’s Department of Health, conservatively estimates that 1% of Ohio’s population has a current COVID-19 infection.³ To prevent further spread, Ohioans have been asked to routinely wash their hands and engage in social distancing practices.

2. COUNTY JAILS ARE AT HIGH RISK DURING A PANDEMIC

¹ <https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/signs-emergency-order-regarding-coronavirus-response>

² <https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/fourth-confirmed-case-covid19-limits-access-to-nursing-homes-assisted-living-facilities>

³ <https://www.wcpo.com/news/national/coronavirus/dewine-confirms-fourth-covid-19-case-will-issue-new-rules-for-mass-gatherings-in-ohio>

Jails are not—nor should they be—hermetically sealed. As people finish serving local sentences, resolve their cases, or are released pre-trial, they may leave incarceration.

Additionally, people who work in jails leave and return every day. Viruses may enter jails and other places of confinement in many ways.⁴ Once such an infection is present in a jail, it is uniquely difficult to prevent spread even using intentional tools and policies.⁵

We have seen examples of carceral spread of COVID-19 in other countries. When coronavirus suddenly exploded in China’s prisons, there were reports of more than 500 cases spreading across five facilities in three provinces. In Iran, 54,000 inmates were temporarily released back into the country amid virus fears.⁶ Decreasing the size of a jail population during a pandemic outbreak can do more than protect the people who live in the jail; it can also reduce the risk of the jail becoming a site of cluster infection, thereby protecting the entire community.

3. DEFENDANT IS A HIGH-RISK INDIVIDUAL

Individuals who are elderly and/or suffer from chronic medical conditions like heart disease, diabetes, and lung disease are at higher risk of serious complications from COVID-19.⁷

The Defendant is in a high-risk category, because

⁴ Ndeffo-Mbah et. al. (June 2018), “Dynamic Models of Infectious Disease Transmission in Prisons and the General Population,” *Epidemiol Rev.*; 40(1): 40-57.

⁵ Turner and Levy (Aug. 2009), “Pandemic Influenza Preparedness and Response Planning: Guidelines for Community Corrections,” American Probation and Parole Association, available at: <https://www.appa-net.org/eweb/docs/appa/pubs/PIPRP.pdf> (noting the challenges of effectively enforcing quarantine procedures in prisons because of overcrowding, movement issues, and movement between prisons and the community).

⁶ <https://apnews.com/af98b0a38aaabedbc059092db356697>

⁷ <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>.

Any penal justification for a jail sentence is outweighed by the risk of continued incarceration during a pandemic virus. This Court should exercise the authority granted by O.R.C. 2929.24(H) to substitute community control sanctions for the remainder of the Defendant's jail sentence.

Respectfully submitted,

Your Signature

Your Name

Your Address

City, State and Zip Code

Pro Se Defendant

Certificate of Service

I hereby certify that a copy of the foregoing Motion was served on _____

County Name

Prosecutor's Office, _____ ,

Mailing Address of Prosecutor's Office

by ordinary US Mail postage pre-paid, this ____ day _____, 20 ____.

Your Signature

Your Name

Pro Se Defendant