



October 1, 2020

Sent via E-mail and U.S. Mail

The Honorable Joe Binkley, Jr.
Circuit Court Judge, Fifth Circuit
Presiding Judge, Davidson County Trial Courts
Metro Courthouse
1 Public Square
Nashville, TN 37201

The Honorable Sam Coleman
General Sessions Judge, Div. X
Presiding Judge, Davidson County General Sessions Court
A.A. Birch Building, Suite 4100
408 2nd Avenue North
Nashville, TN 37219

The Honorable Mark J. Fishburn
Criminal Court Judge, Div. VI
A.A. Birch Building, Suite 5180
408 2nd Avenue North
Nashville, TN 37219

RE: Public Access to Courts and Davidson County Court Re-Opening Plan

Dear Judge Binkley, Judge Coleman, and Judge Fishburn,

We are writing today as representatives of a diverse group of public interest organizations, many of which work with court-involved individuals and their families, to ask respectfully that you modify the orders of your respective courts so the public can obtain reliable access to court proceedings in the A.A. Birch Building.

Over the past several weeks, we have witnessed people come to the A.A. Birch Building to attend court hearings and get denied entry into the building. We have also heard countless reports from people our organizations serve who got turned away at the door. One man had driven all the way from Chattanooga to attend his son's court date. Another man, who came to court with a friend (who did not speak English) to "translate" for him, was also denied entry. This is unacceptable, particularly because all of the courts operating in the Birch Building have not made virtual access to court proceedings readily accessible to the public.

The Tennessee and U.S. Constitutions protect the fundamental right of the public to access the business of our courts. *See State v. Drake*, 701 S.W.2d 604, 607-08 (Tenn. 1985). Article I, Section 17, of the Tennessee Constitution's Declaration of Rights promises "[t]hat all courts shall be open." The Tennessee Supreme Court acknowledged this in its Order addressing the protection of the public's constitutional right of access to the courts during the pandemic. *See In Re: COVID 19 Pandemic*, No. ADM2020-00428 (Tenn. July 13, 2020) (copy attached). In that Order, the Court wrote that "[a]t no time has the Court countenanced or approved an outright ban on public access to the courts." The Court also encouraged members of the public to bring "any instances in which the public's right of access to the courts is infringed or denied" to the Court's attention.

With the exception of jury trials, Nashville's court system has resumed close-to-normal operations, and the city is moving to a modified Phase 3 status today. Despite this progress, the Criminal Court and General Sessions Court reopening plans – which expressly deny members of the public entry into the Birch Building – are still being enforced. At the same time, those courts have not publicized information about whether remote viewing of court hearings through video technology is available, and if so, how to arrange for that. While some of us have arranged to view Criminal Court hearings, we have not always been successful in doing so, and we do not know how to do that for General Sessions court. This is unacceptable, and contradicts the Orders issued by the Tennessee Supreme Court.

Public access to court proceedings is vital to maintaining public trust in our legal system. Secret hearings behind closed doors undermine accountability for government officials, and leave loved ones of those involved in court proceedings in the dark. Closing courthouse doors to the public is also antithetical to the rule of law, and threatens our democracy.

For these reasons, we are respectfully asking that you immediately modify your orders to allow members of the public to access all court hearings either in-person or through video-conferencing technology, and that you make information about how to gain access to court hearings in General Sessions Court and Criminal Court easily accessible to members of the public.

We appreciate your attention to this matter, and respectfully request a response from you within ten days of receiving this letter.

Respectfully,



Rahim Buford, Director
Nashville Community Bail Fund
1623 Haynes Meade Circle
Nashville, TN 37207
rahim@nashvillebailfund.org

Jeannie Alexander
Theeda Murphy
No Exceptions Prison Collective
701 Gallatin Road South
Suite 206
Madison, TN 37115
Jeannie.noexceptions@gmail.com
Theeda.noexceptions@gmail.com

Jordan Baines
Vanderbilt Prison Project
jordan.e.baines@vanderbilt.edu

C. Dawn Deaner
Choosing Justice Initiative
1623 Haynes Meade Circle
Nashville, TN 37207
dawndeaner@cjinashville.org

Deborah Fisher
Tennessee Coalition for Open Government
P.O. Box 22248
Nashville, TN 37202
fisher@tcog.info

Dawn Harrington
Free Hearts
6339 Charlotte Pike
Nashville, TN 37209
dawn@freeheartsorg.com

Attachments: (2)

In Re: COVID-19 Pandemic, No. ADM2020-00428 (Tenn. July 13, 2020)

In Re: COVID-19 Pandemic, 20th Judicial District Approved Reopening Plan (May 21, 2020)

cc: The Honorable Jeffrey Bivins
Chief Justice of the Tennessee Supreme Court
Supreme Court Building, Suite 321
401 7th Avenue North
Nashville, TN 37219

Ms. Deborah Taylor Tate
Director, Administrative Office of the Courts
511 Union St., Suite 600
Nashville, TN 37219