

CLERK OF DISTRICT COURT  
TINA HENRY  
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FILED  
BY \_\_\_\_\_  
DEPUTY

**MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY**

<b>DEPARTMENT C STANDING MASK ORDER</b>	No. <u>SB. 2020.413</u>
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A few moments ago this Court was at the fairgrounds to observe voir dire in *State v. Guardipee*, BDC-20-125, the first felony prosecution in this district to go to trial since the statewide COVID-19 stand-down began in March. While waiting for the proceedings to commence, the Court saw a potential juror threatening to defy Judge Best's order requiring everyone involved in trials before her to wear masks. The potential juror first disregarded County Attorney Racki's informal warning that he was defying a binding court order. Judge Best and lead counsel for each side then had to approach and discuss the situation with the potential juror. The potential juror ultimately relented and put on a mask to avoid being fined and jailed for contempt. Witnessing this event firsthand drives home the need for the following *Order* confirming that this Court will not permit any attorney, participant, juror, or observer to enter or remain in any courtroom or court-associated space over which this Court presides without wearing a mask or other appropriate facial covering.

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On April 27, 2020, Chief Justice McGrath provided the following directives to this Court and its colleagues concerning the gradual resumption of normal court operations:

5. Courts are strongly encouraged to require the use of face coverings or masks for people entering the courthouse. The CDC has indicated masks can assist in stopping the transmission of the illness by an asymptomatic person and may be helpful in slowing the spread of COVID-19. . . . We are working on providing masks for District Courts at the state's expense.

6. . . . Jury trials must be conducted in such a manner as to maintain social distance and protect the health of jurors and others coming in and out of buildings. At a minimum, courts must:

. . . .

f. Make hand sanitizer and masks available to jurors and others in the courtroom.


4/27/2020 McGrath Memo to District Judges and Clerks, Montana Water Court, and Courts of Limited Jurisdiction. Chief Justice McGrath repeated these instructions in his May 22 follow-up memo to the same recipients.

This Court bears initial responsibility for all criminal and civil cases tried before it. Mont. Const. art VII, § 1. But the Supreme Court has supervisory authority over all lower courts, including this one. Mont Const. art. VII, § 2(2). The present situation is therefore a straightforward chain of command issue, not an occasion to debate the underlying medical science. This Court will not disregard, or permit anyone else before it to disregard, the foregoing Supreme Court directives.

For the foregoing reasons, **IT IS HEREBY ORDERED:**

1. That no one may enter or remain in any courtroom or other court-associated space (i.e., the voir dire room at the fairgrounds) presided over by this Court without wearing a mask or other appropriate facial covering.
2. That anyone who enters or remains in the courtroom or other court-associated space in violation of this *Order* does so on pain of being fined for contempt of court, jailed for contempt of court, and also being held personally liable for all costs associated with any delay of the proceedings associated with the contempt.
3. That this *Order* shall remain in effect until superseded in writing.

DATED this 19<sup>th</sup> day of June, 2020.

  
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John A. Kutzman  
District Court Judge

cc: Clerk of Court  
County Attorney  
Office of the Public Defender  
Cascade County Sheriff



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