



ANTHONY J. BENEDETTI
CHIEF COUNSEL

The Commonwealth of Massachusetts
Committee for Public Counsel Services
44 Bromfield Street, Boston, MA 02108-4909

TEL: (617) 482-6212
FAX: (617) 988-8495

April 2, 2020

Francis V. Kenneally
Clerk, Supreme Judicial Court
John Adams Courthouse
One Pemberton Square
Suite 1300
Boston, MA 02108

RE: *CPCS v. Chief Justice of the Trial Court*
SJC-12926

Dear Clerk Kenneally:

This letter is being submitted pursuant to Mass. R. App. P. 22(c). At oral argument, I mentioned that we were experiencing delay in a case in Worcester County. That case is *Commonwealth v. Yang*, 1385CR01137. The attorney informs me that he filed his emergency motion on Thursday, March 26, 2020, and on Monday, March 30, 2020, the clerk informed him they were trying to set up a video hearing for some time between April 6 and April 10.

In contrast to statements by General Counsel for the Trial Court during oral argument, ¹ *Yang* is emblematic of our experiences, which demonstrate repeated instances of hearing delays. The attached chart provides dozens of examples of delays extending up to two weeks.

¹ Attorney Sullivan: "What the chief justices of both the district and the superior court have told me is that these motions are being promptly heard. There hasn't been a wait for someone to be heard. The judges understand that this is [an] emergency and these are emergency motions. So they have been hearing them. I don't think it's accurate that there's been delay as far as I know in the hearing of any of these motions." Oral Argument, 1:42:00.

We also want to bring this Court's attention to another obstacle to relief for medically vulnerable prisoners, specifically, obtaining medical records from some of the carceral facilities. An attorney reports that when he sought medical records in Plymouth County, they provided excellent assistance by having the client sign a release form and sending the records within a day. Bristol County House of Correction, on the other hand, said they had to process the release and then they would contact him with the cost via fax (and only via fax). After that, he would have to mail in the check before they would send the medical records. Even though the attorney informed Bristol of the upcoming hearing date, they refused to even expedite getting him the cost of the records.

Finally, we bring this Court's attention to new information since the Department of Correction filed its April 1, 2020 post-argument letter. According to WBUR, there are now 19 prisoners, three DOC staff, and one medical provider who tested positive for COVID-19 at the Mass. Treatment Center in Bridgewater; one prisoner and two staffers at MCI-Shirley who tested positive, and one staffer at Souza-Baranowski Correctional Center who tested positive.² Petitioners have also been informed that, after working a shift at a Massachusetts house of correction on March 24, a nurse was sent home and has now tested positive for COVID-19.

Sincerely,

/s/ Rebecca Jacobstein

Rebecca Jacobstein

² See <https://www.wbur.org/commonhealth/2020/04/01/mass-prisons-jails-coronavirus>

TABLE OF CASES

Court	Docket Number	Delay described	Days of Delay
Bristol Superior	1873CR248 & 1973CR138	March 13 – filed motion to reduce bail due to COVID19 but not heard until March 24.	11
Chelsea District	1914CR002659; 2014CR000207	Emergency assented to motion to vacate bail revocation filed on March 23, but not heard until March 26 (it was denied).	3
Plymouth Superior	1883CR00023	Motion filed on March 30 but not scheduled to be heard until April 8. They are only doing video conferences from Plymouth Jail in Plymouth Superior Courts on Wednesdays.	9
Suffolk Superior	1684CR00512; 1084CR10335	March 26 - filed motion for a bail reduction; originally scheduled to be heard on March 30 but when AAG asked if they could have later call (within window of 10 am to 2 pm) clerk told them no special accommodations, removed case from list, and told her to reapply Now scheduled for April 3.	7
Worcester Superior Court	0885CR00052	Filed emergency stay motion in connection with a new trial motion on March 24; judge gave Commonwealth 14 days to respond.	At least 14 days
Hampden Superior Court	1979CR00079	Filed motion for bail on March 23; heard on March 30; no ruling as	7

		of the afternoon of April 1	
Springfield District	1923CR7502	Filed motion on March 23 and was heard on March 31. Bail reduced from 25k to 2k, which family can make, but Springfield District Court never sent new mitt to bail and the court was closed. Finally at 5:30 on April 1, a clerk was reached who called the jail to fix the problem.	9
Springfield District	1923CR002994 1923CR007293 1923CR7469	Filed motion March 19, followed up repeatedly, finally told it could be heard April 2 or 3 but now court is closed and she doesn't know if they can get it heard elsewhere.	Indefinite
Worcester Superior	1885CR00287	Motion to reduce bail filed March 24, but not heard until April 1.	8
Worcester Superior	1985CR00180	An attorney filed a motion reduce bail on March 24 which has yet to be scheduled.	Indefinite
Worcester Superior	1885CR00443 and 1985CR00396	An attorney filed a motion to reduce bail on March 24 which has yet to be scheduled.	Indefinite
Middlesex Superior	1981CR00494	On March 18 , an attorney filed a motion to reconsider a 58A detention which was not heard until March 24.	6
Middlesex Superior	1981CR00405	An attorney filed a motion to reduce bail on March 23 which was not heard until March 27.	4
Middlesex	1781CR00548	An attorney filed a	4

Superior		motion to reduce bail on March 30 , but the hearing has not been scheduled until April 3 .	
Lynn District	1813CR002753	On March 27 , an attorney filed a motion which has not yet been scheduled for hearing .	Indefinite
Holyoke District	1917CR002235	An attorney filed a motion on March 23 which was not heard until March 30 .	7
Barnstable Superior	1972CR00100	An attorney filed a motion on March 23 which was heard on March 26 .	3
Worcester Superior	1385CR01137	An emergency stay that was filed on March 26 has been scheduled for April 8 , nearly two weeks later. Furthermore, the court insists that the attorney appear in person despite his chronic respiratory illness.	13
Pittsfield District	1927CR2203	A motion frilled on March 24 was heard on March 27 .	3
Pittsfield District	1927CR2192 & 1927CR2561	This attorney filed a motion on April 1 that has not yet been scheduled .	Indefinite
Springfield JUVENILE		This attorney has an asthmatic client being held on nonviolent drug offenses. On March 23 , she filed a motion and did not hear anything for a week. When she followed up on March 30 , she was told, " We haven't even looked at it yet, " and now the	Indefinite

		courthouse is closed. She does not know the status of this motion and when it may be scheduled for hearing.	
Springfield District	2023CR00494	An attorney filed a motion to reduce bail on March 23 that was heard on March 27 .	4
Lynn District Court	1613CR1838	On March 30 , an attorney filed an emergency stay and to date still hasn't heard anything .	Indefinite
Hampden Superior	1979CR00216	An attorney filed an emergency motion to reconsider bail on March 27 which was not heard until April 1 .	5
Hingham District	1958CR000766, 1958CR001748, 1958CR001810	On March 19 , an attorney filed a motion for reconsideration of bail/release which was not heard until March 31 .	12
Plymouth Superior	0683CR00406	A motion filed on March 30 has not been scheduled for hearing until April 9 , even though the client has a respiratory issue.	10
Middlesex Superior	1981CR00131	An emergency motion filed on March 19 was not scheduled for hearing until April 2 .	13
Middlesex Superior	1781CR00471	Filed motion March 30, scheduled April 2.	3
Middlesex Superior	1981CR00384	Filed motion for bail review on March 18, heard on March 26.	8
Marlborough District	1921CR1301	Filed motion on March 26; scheduled for April 9.	14
Milford District	1666CR000653	Filed motion for	24

		detention review on March 16; scheduled for April 9.	
Hampden Superior Court	1923CR04101	Filed bail review motion March 26; on March 31 received call from judge that he was “on the record with an ADA and the ADA agreed to release.”	5
Lynn District	2013CR000549	Filed emergency motion to reconsider 58A on March 27 but have heard nothing yet.	Indefinite
Hampden Superior	1979CR00304	Filed motion for bail reduction March 26; scheduled for April 2.	7
Springfield District	2023CR1616	Client is held pending a 58A hearing that was supposed to happen March 19 but was rescheduled for April 3, but now court is closed.	Indefinite
Brighton Division of BMC	2020CR76	Client needed to be arraigned on warrant. His attorney filed a motion to vacate warrant and arraign on March 19. It was not heard until March 30, at which a bail was set and he posted it.	11
Lynn District Court	2013CR000641	Motion to reduce bail filed on March 20; as of April 2, the court is closed and counsel has been unable to confirm whether the motion has been received or acted upon.	At least 13
Dedham District Court	2054CR0170	Motion to reduce bail filed March 18 and heard March 23.	5
Peabody District	1857CR001114	Attorney filed motion to	8

Court		reconsider bail revocation on March 18; refiled on March 24 when no action had been taken, and it was denied on March 26.	
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