

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF TRINITY

FILED

STANDING ORDER NO. 17 – 002 [AMENDED] SEP - 8 2017

CLERK OF THE SUPERIOR COURT
COUNTY OF TRINITY
BY: PATRICIA SAXON, DEPUTY CLERK

The Court FINDS THE FOLLOWING FACTS TO BE TRUE:

1. Trinity County Superior Court is situated within an historic building owned by the County of Trinity, and as such, is not readily subject to remodeling for secure or efficient operational needs. Primarily this is because of financial constraints, in that the State of California will not pay for improvements to property that it does not own, and the County of Trinity cannot afford improvements to its own buildings. Accordingly, the physical limitations of Trinity County Superior Court operations are essentially fixed and immutable.
2. The courtrooms of the Superior Court do not have any holding cells, or ANY secure hallway or corridor, or any area that is locked and closed to the public for inmates to await arraignment, or be processed upon transfer from the jail. Inmates are always exposed to the general public and to each other during transport and while awaiting their case to be called in court.
3. Inmates are brought via van from the jail by Sheriff's Office staff, parked at the curbside steps and led across the sidewalk adjacent to the state highway into the courthouse, where the Superior Court's Marshals take custody of them prior to hearings or trials in the courtroom. Those taken to Department 2 are led directly into the courtroom and wait for their case to be called while sitting in the jury box. Those taken to Department 1 wait in the law library adjacent to the courtroom until they are brought into the courtroom and then they wait in the jury box for their case to be called. Inmates cannot be kept safe, and the general public cannot be kept safe, under these conditions, without shackling or extra staffing.
4. Trinity County Superior Court employs three full-time Marshals. The court's security study that was last performed, in 2014, a copy of which has previously been submitted to the Judicial Council's court security unit, demonstrates that under the circumstances in this unique courthouse, a staff of at least 2 additional full-time officers is required to meet basic standards for public safety. Despite repeated requests for funding, no additional budgetary support has been forthcoming to enable the additional security to be hired. Likewise, the underfunding of the Trinity County

Sheriff's Office is chronic and widely acknowledged, and staffing at the jail is sometimes insufficient to permit qualified custodians to drive the transport van. The present conditions plainly and obviously do not support public safety, therefore further slackening of any safety measures is inadvisable.

5. The presiding judge has been informed by legal counsel, in a letter dated July 3, 2017, that pursuant to the authority of *United States v. Sanchez-Gomez* (9TH Cir. May 31, 2017, No. 13-50561) _F3d_ [2017 WL 2346995], the courts in California may need to consider whether to discontinue "the practice of placing all in-custody defendants in obtrusive full restraints at pretrial proceedings," unless the court has previously made the required *Sanchez-Gomez* analysis, in a hearing, and determined on the record that the restraints are necessary in any individual case. The previously listed findings set forth above, Nos. 1-4, demonstrate that a requirement to unshackle inmates in all pre-trial proceedings directly threatens the safety of the general public, the courtroom staff, and other inmates under the circumstances that are now present and expected to continue indefinitely in Trinity County Superior Court.

Based on the foregoing findings of fact, the Court finds GOOD CAUSE to impose a standing order that requires all inmates to remain shackled, as is the current practice, subject to the following procedural protections.

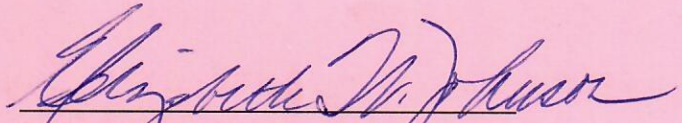
IT IS HEREBY ORDERED:

- A. That all inmates who are transported while in custody, from the Trinity County Jail to the Trinity County Courthouse, shall remain shackled from the jail, to the van in which they are transported, to the holding cell and from there, into the courtroom. "Shackling" typically consists of handcuffs, waist and leg shackles. The only exceptions from this rule shall be as stated in paragraphs B or C, below.
- B. Inside the courtroom, without regard to whether a hearing is requested as set forth in paragraph C, below, during trial or in any pretrial hearing, and consistent with the authority of longstanding Constitutional case law and practices of the court, at the direction of the Judge in whose department the hearing or trial is taking place, after considering the advice of the courtroom Marshal, shackling may be removed in part or completely, and shall be as unobtrusive as possible depending upon the inmate's history of conduct while in custody, the seriousness of the pending charges, inmates non-conforming conduct or planned non-conforming conduct, the inmate's mental status if known, and other similar factors.
- C. A defendant, through counsel, may request in writing to have a hearing in advance of the scheduled pretrial hearing or trial. At this pretrial hearing,

defendant, the district attorney, law enforcement and courthouse security agents may be called to present evidence which shall demonstrate by a preponderance whether (1) a compelling reason exists for shackling to be imposed in defendant's individual case, and (2) the type of restraints used in that case are the least restrictive means of preserving public safety. The Court shall use its discretion in deciding each individual shackling case at the pretrial hearing, based upon the evidence presented.

This order shall take effect immediately and shall remain in effect indefinitely. The clerk shall provide copies of this standing order to the Sheriff's Office, the District Attorney's Office, and the Public Defenders for Trinity County.

DATED: September 8, 2017



HON. ELIZABETH W. JOHNSON
Presiding Judge of the Superior Court