Dear Colleagues,

I've received requests from several judges for an order from the Supreme Court that would "reinstitute" the tolling of jury trials during this current Covid-19 spike. Unfortunately, such action is beyond the scope of the Supreme Court's authority.

The previous and now expired tolling orders that have been issued by the Supreme Court earlier in the pandemic all concern matters under the Court's authority – i.e., rules promulgated, or requirements established by the Court. The tolling or suspension of jury trials ultimately implicates the right to a speedy trial. The speedy trial right is established by both the federal and Ohio constitutions and is codified in R.C. 2945.71. The Supreme Court can toll none of these rights.

In March 2020, pursuant to the Executive Branch Declaration of an Emergency, the legislative speedy trial law (R.C. 2945.71) was tolled. However, this was done not by Supreme Court order, but by legislative enactment, specifically Am. Sub. H.B. 197. This statutory enactment has since expired, and any reinstatement of the order would require legislative and executive action.

However, it is important to note that you, as a judge, do have the authority to continue jury and bench trials for defendants on a case-by-case basis.

Please review the attached document, OPINION NO. 2020-002, from the Attorney General addressing when a court may continue a trial and not run afoul of the speedy trial requirements in statute and the Ohio and federal constitutions. I direct your attention to page 3 of the opinion, where it lays out circumstances under which a continuance may be given, whether by motion of the State or sua sponte. Importantly, it states what is prudent to be contained in the order granting a continuance and notes that the order must precede the expiration of the speedy-trial requirements of R.C. 2945.71.

I hope that this answers your inquiries and assists you in managing trials for as long as necessary due to the pandemic.

Sincerely,

Maureen O'Connor
Chief Justice