

filed against Petitioner in Petersburg General District Court, and is scheduled for a hearing at 8:30 a.m. on Wednesday, May 20, 2020.

2.2. Hon. Ray P. Lupold III is the Chief Judge of the Petersburg General District Court, a general district court established under Virginia Code § 16.1-69.7, and which hears and adjudicate actions for unlawful entry and detainer concerning residential rental properties within their territories under Virginia Code § 16.1-77. As Chief Judge, Judge Lupold has the power to determine whether and when to open the Petersburg General District Court for in-person eviction hearings.

2.3. This Court has original jurisdiction over petitions for writs of prohibition under Virginia Code § 17.1-309.

III. Summary of Claim

3.1. Because of the ongoing Covid-19 pandemic, this Court declared a judicial emergency in all district and circuit courts on March 16, 2020.

3.2. This Court's emergency order suspended "non-essential, non-emergency court proceedings in all circuit and district courts" originally through April 6, 2020. The order was extended twice--first to April 26, and again to May 17.

3.3. Because of the emergency order, residential eviction suits (generally being actions for unlawful entry and detainer under Va. Code § 8.01-126) have generally been suspended since March 16.

3.4. On May 6, 2020, however, this Court entered an order authorizing all courts to resume in-person hearings of non-emergency matters on May 18, if such courts “determine it is safe to do so, and provided they comply with the guidance for transitioning from emergency to routine operations provided by the Office of the Executive Secretary in order to minimize the risk of the spread of COVID-19 from in-person court proceedings.” Fourth Order Modifying and Extending Declaration of Judicial Emergency in Response to Covid-19 Emergency, ¶ 4 (May 6, 2020).

3.5. Following this Court’s May 6 order, the Petersburg General District Court decided to resume in-person hearings for residential unlawful detainer cases. Petersburg General District Court has indicated that it will resume hearing such cases in-person at 8:30 a.m. on May 20 and continue hearing such cases in-person routinely thereafter.

3.6. On May 15, 2020, the Petersburg General District Court posted a notice, which states:

As of Monday, May 18th the Petersburg General District court will begin to hear scheduled cases. Social distancing will be required and

face covering request. The clerks' office will be open for the filing of pleadings/emergency motions only. Preliminary protective orders will be done by affidavit.

3.7. However, the Petersburg General District Court has not taken adequate steps to comply with the OES transition guidance, as required by the May 6 order.

3.8. In particular, the OES transition guidance recommends that courts:

Consider attaching notices to summonses, witness subpoenas, notices of hearing and show causes which provide the following information:

- Only parties and witnesses will be allowed in the courtroom and the number of persons allowed in the courtroom at the same time will be limited.

- If you have been ill or are currently experiencing symptoms such as shortness of breath, cough, or a fever, or if you have been exposed to someone who has been diagnosed with the coronavirus, please contact the clerk's office to reschedule your hearing.

-The court is conducting hearings by telephone and/or video conferencing. To request a remote hearing, please file a motion with the clerk's office.

3.9. Providing the recommended information to litigants, witnesses, and other relevant persons is critical to fulfill the due process rights of eviction defendants because this Court's emergency orders limit courthouse access to only "attorneys, parties, necessary witnesses, interpreters, court personnel, court reporters, bailiffs and those deemed necessary by the presiding judge, and members of the press where permitted by law." Order Extending Declaration of Judicial Emergency in Response to Covid-19 Emergency, ¶ 7 (Mar. 27,

2020). Even persons belonging to an admissible group may not enter court facilities “if they have, within the previous 14 days:

- a. visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC;
- b. traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
- c. been asked to quarantine, isolate, or self-monitor by any doctor, hospital, or health agency;
- d. been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19;
- e. experienced a fever, cough, or shortness of breath; or
- f. resided with or been in close contact with any person in the above-mentioned categories.

Id., ¶ 12.

3.10. Despite this Court’s order, the Petersburg General District Court has not adopted the policies or procedures recommended in the OES. Without these notices, tenants facing eviction may be denied entry to the courthouse, deterred from defending, confused about how to respond, appear, or continue their case, or otherwise unable to defend.

3.11. Should the hearings resume on May 20, the Petersburg General District Court will be acting outside its jurisdiction because that court is not authorized to hear cases except in compliance with the OES transition guidance.

3.12. This Court’s May 6 order also states that “[a]ll courts should enter orders consistent with [the May 6] Order to advise their court users of new

protocols and schedules consistent with this Order.” Fourth Order Modifying and

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5

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Extending Declaration of Judicial Emergency in Response to Covid-19
Emergency, ¶ 11 (May 6, 2020).

3.13. The Petersburg General District Court has not entered any order advising users of any new protocols or schedules consistent with this Court's order, such as orders informing the public which persons may or may not enter the courthouse or what procedures to follow if unable to enter court or to request a remote hearing.

3.14. Should the hearings resume on May 20, the Petersburg General District Court will be acting outside its jurisdiction because that court is not authorized to hear cases without having entered an order advising users of any new protocols or schedules.

3.15. In addition, during the judicial emergency, the federal government enacted a series of restrictions on residential eviction proceedings under the CARES Act, Pub.L. 116-136, §§ 4023-4024. For instance, § 4024(b) of the CARES Act prohibits the filing of certain unlawful detainer actions in properties that participate in federal housing programs or have federally-backed mortgage loans.

3.16. However, the Petersburg General District Courts has not taken adequate steps to ensure either that cases are not filed in violation of the CARES

Act, or that any such filings are identified and dismissed. Unless the Petersburg General District Court takes such steps, it is likely that unlawful detainer actions prohibited by the CARES Act will be heard by that court.

3.17. When the hearings resume on May 20, the Petersburg General District Court will almost certainly act outside its jurisdiction if it unknowingly hears and enters rulings in cases brought unlawfully in violation of the CARES Act.

IV. Request for Relief

4.1. For all of the foregoing reasons, petitioner asks this Court to enter a writ of prohibition, restraining the Petersburg General District Court from resuming in-person residential eviction hearings until such time as that court demonstrates having taken appropriate steps (a) to comply with the OES transition guidance, (b) notify court users, by written order, of new protocols and schedules made necessary by this Court's emergency orders, and (c) to prevent the filing of cases barred by the CARES Act or to identify and dismiss such cases before hearing them.

4.2. Petitioner further requests her costs under Virginia Code § 8.01.-648.

4.3. Petitioner further requests any additional relief to which she may be entitled by any law, or in the interests of justice.

Petitioner swears or affirms that the information in this Petition is true and correct to the best of her knowledge, information, and belief.

5/18/2020
Date

Shakori Edwards
Shakori Edwards

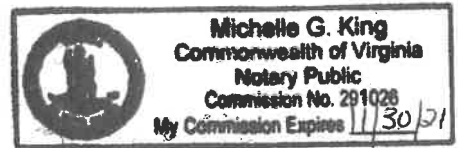
Commonwealth of Virginia)
)
City of Petersburg)

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned Notary Public in and for the aforesaid jurisdiction by Shakori Edwards, this 18th day of May, 2020.

Michelle G. King
Notary Public

My Commission Expires: Nov. 30, 2021

My Notary Registration No. 291026



Respectfully submitted this 18th day of May, 2020, by:



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