



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL

JOSH SHAPIRO  
ATTORNEY GENERAL

April 3, 2020

John Person, Esquire  
Deputy Prothonotary  
Supreme Court of Pennsylvania  
468 City Hall  
Philadelphia, Pennsylvania 19107

Re: **In re Petition of C.Z., et al., No. 24 EM 2020**

Dear Mr. Person:

The Office of Attorney General will not file a formal answer to the Petition. The Office has little involvement in juvenile court matters, and is not in a position to provide a detailed reply to the Petition’s factual allegations, which purport to encompass the actions of every juvenile facility in the Commonwealth, as well as every judicial district, in response to the coronavirus crisis.

The Office does note, as it did in its filing earlier this week regarding mass release of adult prisoners, that the emergency “King’s Bench” litigation favored by these and other petitioners is ill-suited, and in fact injurious, to the proper resolution of the novel policy issues raised by the pandemic. The juvenile justice system consists of many components. No good decisions can be made without the input and participation of the responsible parties. Last-minute King’s Bench petitions preclude that possibility, as if by design.

In the present case, for example, petitioners have apparently identified the Department of Human Services as a respondent; yet many other entities with crucial information have been omitted. These include the Pennsylvania Council of Chief Probation Officers, the Juvenile Detention Center Association of Pennsylvania, and, perhaps most importantly, the Juvenile Court Judges’ Commission. Petitioners ask this Court to impose abrupt and uniform rules to eliminate any exercise of individualized discretion by these officials, including judicial officials – without providing them any opportunity to inform this Court about the conditions they are facing and the efforts they are making to address them.

These concerns apply even more strongly to the mass release of juveniles than to the mass release of adults. Despite petitioners’ efforts to equate juvenile detention with adult incarceration, the Legislature and this Court have made clear that they have very different purposes and procedures. If a juvenile is placed in a facility, it is because a judge has made an

individualized determination of his or her need for treatment. There are no sentencing guidelines, no mandatory minimums, no maximums.

To enforce these distinctions, this Court has promulgated the Rules of Juvenile Court Procedure. Rule 240(C) requires that detention hearings must occur within 72 hours. Rule 240(D) requires that adjudication hearings must occur within ten days. Rule 409(A) requires that, even if the court finds the juvenile has committed the offenses, no adjudication of delinquency may be made unless the court additionally finds that the juvenile is in need of treatment. Rule 510(A) requires that the court must decide on a disposition within 20 days. Rule 510(D) requires that the court cannot order an out-of-home placement unless it finds and states on the record that there is no less-restrictive alternative that can protect the public while meeting the juvenile's need for treatment. Rule 610(A) provides that the court must periodically review the juvenile's adjustment to the placement. And Rule 632(A) provides that any party may move for the early termination of supervision at any time.

As a result, juvenile detentions and dispositions are much more individualized than proceedings in adult court. Juvenile court judges typically have close knowledge of the available facilities; they know the juveniles they supervise; they know their families.

That experience, of course, must now take into account a new and unprecedented development: COVID-19. But this Court's existing procedures for addressing the needs of juveniles provide the starting point for confronting this new reality. The Court, in its supervisory authority, is capable of directing the president judges of each judicial district to coordinate with the relevant stakeholders, to weigh the relevant factors, and to modify existing orders as appropriate. No statewide mass release mandate, based on a handful of declarations, can substitute for this hard but necessary work.

A balanced approach is particularly appropriate under the current circumstances. The juveniles whom petitioners seek to release into the community *en masse* are overall less likely to succumb to the virus than adults, yet more likely to spread it. They are less likely to return to acceptable, safe family environments, which is exactly why detention and treatment may have been needed in the first place. And they are certain not to return to schools, all of which are currently closed, meaning a significant support system for young people is presently unavailable.

These are the sort of considerations that judges, acting within the framework of this Court's rules and supervisory authority, can bring to bear in responding to the very real threat created by the coronavirus.

Respectfully submitted,

RONALD EISENBERG  
Chief Deputy Attorney General  
Pennsylvania Office of Attorney General