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Winter Virus Surge Deepens Uncertainty Over Return of New Jury Trials

State court officials shutdown new jury trials in November as New York saw climbing coronavirus figures.

By Ryan Tarinelli | January 04, 2021



Marked seating arrangements are placed for the jury to ensure social distancing in a trial court room at the Kings County Supreme Court in Brooklyn. Photo: Ryland West/ALM

New York is wading through the first days of the new year in the throes of a winter coronavirus surge, injecting further uncertainty over when new jury trials will return to state courts.

The surge presents a familiar and persistent issue for the state court system: Curbing new infections requires people to avoid gathering, but the pre-pandemic criminal justice system, in many ways, operated on person-to-person interactions.

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Federal districts then followed suit with the Western District of New York halting new jury trials until at least late February and the Northern District of New York putting the brakes on new jury trials until at least March. It's unclear if those suspensions will be extended.

State court officials have not provided a date for when new jury trials might resume.

The option of a jury trial can push parties to negotiate and to find a resolution to the case, said Phillip Hamilton, a defense attorney based in New York City. Trial, in and of itself, is a leveraging point, he said.

But the state's worsening coronavirus landscape will make it even more difficult to safely conduct a jury trial, he said. Plus, he said potential jurors are rightfully nervous about being infected and might have other factors to consider, like children who are at home with remote schooling.

New York is trudging through the 11th month of the pandemic with at least 30,600 people dead, more than 1 million total confirmed infections and increasing virus hospitalizations.

State data shows more than 8,250 people with the virus were hospitalized Sunday, the highest level since early May.

New York is now seeing well over 100 deaths from the virus everyday on average. On Monday, state officials reported 170 more coronavirus deaths.

The pandemic shows no sign of slowing down either. Statewide, the average number of new cases per 100,000 residents is at its highest since the fall and winter surge began.

To make matters worse, Gov. Andrew Cuomo said Monday that the COVID-19 variant known as B.1.1.7, which is reported to be more contagious, has been found in New York.

The case comes out of Saratoga County, north of Albany, he said. The man who caught the variant did not travel recently, suggesting that the infection came through community spread, the governor said.

New York's coronavirus figures have created a nebulous view of when jury trials might return.

That means criminal defendants who are locked up in pretrial detention do not have a clear view of when they will have their day in court, said Ann Mathews, managing director for the criminal defense practice at The Bronx Defenders.

When new jury trials are once again allowed, having one jury trial at a time would be welcomed, she said. But that would not be enough to keep up with caseloads in the Bronx, she said.

Chief Judge Janet DiFiore did not provide a timeline for when new jury trials might resume in a video statement Monday.

"We continue, hopefully just for the short term, our efforts to remotely manage our dockets and deliver justice as efficiently and effectively as we can until this second wave of the virus subsides, and we can safely restart in-person proceedings, including conducting jury trials and empanelling the normal complement of grand juries," she said in the video.

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