



**MICHIGAN JUDGE ISSUES UNCONSTITUTIONAL ORDER EMPOWERING
AUTHORITIES TO ARREST ANYONE OVER COVID-19 FEARS**

On April 6, 2020, Kent County Chief Circuit Judge Mark Trusock issued a court order authorizing the police to involuntarily detain (arrest) anyone suspected to be a “carrier and health threat” to the community.¹

**THE COURT ORDER VIOLATES BOTH THE
MICHIGAN AND FEDERAL CONSTITUTIONS**

General warrants are unconstitutional. Warrants to arrest or detain people cannot be issued against an entire class of persons or against everyone in a single county. Warrants must be specific and may only be issued against a particular person for a particular reason. The State cannot give the police and health authorities unrestricted power to arrest and force testing and treatment of a person or deprive them of their liberty without due process.

The U.S. Const., 4th Amendment states:

... no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Michigan’s Const., Art. 1, Section 11 states:

... No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Judge Trusock’s order violates the constitutional rights of all persons in Kent County. The order is unconstitutional because it gives blanket authority to officials to arrest/detain any person without any court hearing or without any evidence establishing probable cause to support the detention.

**THE COURT ORDER VIOLATES MICHIGAN’S
PUBLIC HEALTH CODE**

Judge Trusock relied upon MCL 333.5207 to issue his order. However, the statute only allows the detention of an “individual” who the “court has reasonable cause to believe” is a public health threat. Instead of issuing this order against a particular individual, the court unlawfully issued its decree against anyone who happens to be present in Kent County.

Under Judge Trusock’s order, if a health official determines (in his or her sole discretion) a person has COVID-19, that person may be detained for up to 72 hours without any opportunity to be heard at a court hearing. However, a court may not delegate its decision-making and due process responsibilities to a local health official. The official must file a specific affidavit with specific allegations against a specific person prior to detention. There is a court form used by health officials for emergencies (SCAO PC-110). Judge Trusock’s court order ignores the legally required petition process.

When government officials improperly exercise power beyond that provided in law it violates principles of good governance and the Rule of Law. This order is unconstitutional, unlawful, and unenforceable. Any police officer or health official arresting or detaining a person under this illegal order is acting outside the scope of their legal authority and may face personal liability if they try to enforce this order.

Great Lakes Justice Center calls on Judge Trusock to rescind his unconstitutional order.

GREAT LAKES JUSTICE CENTER

¹ For a copy of the court order see <https://greatlakesjc.org/wp-content/uploads/Kent-County-General-Warrant-Order.pdf>