

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

**In Re: SUPPLEMENTAL ORDER CONCERNING
COURT OPERATIONS RELATED TO COVID-19**

**GENERAL ORDER
NO. 20-09**

*** **

Due to the continuing and evolving COVID-19 epidemic, the Court hereby amends General Orders 20-02, 20-03, and 20-08 to extend various continuance dates and to extend the term of service for the Western District of Kentucky's grand jury panels. Accordingly, the Court hereby **ORDERS** as follows:

1. **TRIALS.** All civil and criminal trials scheduled to begin on or before May 29, 2020, are continued and shall be rescheduled by separate order of the presiding judge.

2. **TRIAL DEADLINES.** All trial-specific deadlines in criminal cases scheduled to begin on or before May 29, 2020, are continued pending further Order of the Court. Individual judges may continue trial-specific deadlines in civil cases at their discretion.

3. **GRAND JURY.** All grand jury proceedings, which were continued by General Order 20-08, are **CONTINUED** through May 29, 2020. The Court finds that because impaneling new grand jurors cannot be done without seriously jeopardizing public health and safety, including the health and safety of the prospective grand jurors, counsel, and Court Staff, it is, therefore, in the public interest to extend the term of service of all currently serving grand jury panels. Accordingly, and pursuant to Rule 6(g) of the Federal Rules of Criminal Procedure, the terms of service for all currently serving grand jury panels are **EXTENDED** for an additional ninety (90) days beyond the expiration of their current terms.

4. **SCHEDULED CRIMINAL HEARINGS.** All hearings in criminal cases that are scheduled to occur on or before May 29, 2020, including all motion hearings, change of plea hearings, and sentencings are **CONTINUED** generally, subject to further orders of the assigned judge who may exercise discretion, subject to the CARES Act and General Order 20-05, to proceed with the affected hearings at the scheduled time or otherwise by telephone, video conference, or other means that do not require personal appearance at the Courthouse.

5. **OTHER CRIMINAL MATTERS.** Initial appearances on indictments and complaints, arraignments, detention hearings, issuance of warrants, final revocation hearings, as well as alleged violations of pretrial or supervised release or probation, will proceed as usual, with utilization of remote attendance to the full extent practicable and in compliance with the CARES Act. However, appearances in any such matters ordered by summons will be continued to a date after May 29, 2020.

6. **CIVIL HEARINGS.** Subject to the exception below for temporary restraining orders and other emergency matters, all in-person hearings in civil cases scheduled through May 29, 2020, are **VACATED**. The assigned judge in each case may exercise discretion to proceed with the hearing at the scheduled time or otherwise by telephone, video conference, or other means that do not require personal appearance at the Courthouse.

7. **EMERGENCY MATTERS.** Absent exceptional and unavoidable circumstances, all hearings in emergency matters, including on applications for temporary restraining orders, shall be conducted by telephone, video conference, or other means that do not require the personal appearance of parties, counsel, and witnesses at the Courthouse.

8. **NATURALIZATION CEREMONIES.** All naturalization ceremonies scheduled through May 29, 2020, are **POSTPONED** and will be rescheduled at a later date.

9. **SETTLEMENT CONFERENCES.** All settlement conferences scheduled through May 29, 2020, are **VACATED**, subject to the further orders of the judge assigned to conduct the settlement conference who may exercise discretion to proceed with the affected hearings at the scheduled time or otherwise by telephone, video conference, or other means that do not require personal appearance at the Courthouse.

10. **MISDEMEANOR AND PETTY OFFENSE DOCKET.** All misdemeanor, traffic and petty offense dockets scheduled in this Court through May 29, 2020, are hereby **CONTINUED**. New dates for the cases scheduled on such dockets shall be reset without the need to file any motions with the Court.

11. **FALSE CLAIMS ACT.** For all complaints filed pursuant to the False Claims Act, 31 U.S.C. § 3729 *et seq.* which remain under seal, the Court finds that pursuant to 31 U.S.C. § 3730(b)(3) good cause exists to grant the United States an extension of time in which to intervene in said actions due to the COVID-19 pandemic and the logistical constraints it has created. For all sealed *qui tam* cases filed pursuant to 31 U.S.C. § 3729 *et seq.*, the United States shall have an additional 60 days from the current intervention deadline in which to intervene in said action or to notify the Court if it declines to do so. Nothing in this Order shall be construed to limit the United States from seeking additional extension of time in said cases.

12. **REMOTE ACCESS TO COURT PROCEEDINGS.** The Court has entered General Order 20-05 which, pursuant to the CARES Act, authorizes certain criminal proceedings to occur by video or telephone conferencing if a criminal defendant so consents. The Court reminds persons granted remote access to these and other proceedings of the general prohibition against photographing, recording, and rebroadcasting court proceedings. Violation of these prohibitions may lead to sanctions, including denial of access to future hearings, or any other sanctions

deemed necessary by the court.

13. COURTHOUSE ACCESS. The provisions of General Order 20-03 that pertain to access to the Courthouses, and the limitations thereon, shall remain in effect through May 29, 2020.

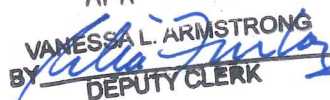
14. SPEEDY TRIAL ACT CONSIDERATIONS. Due to the Court's reduced ability to obtain an adequate spectrum of jurors and the above-referenced public health considerations associated with criminal jury trials and grand jury proceedings, the time period of the continuance caused by this Order shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), as the Court specifically finds that the ends of justice served by taking this action outweigh the interests of the parties and the public in a speedy trial. Subject to intervening orders, the period of exclusion shall be from the date of this Order through May 29, 2020. The district judge assigned to the matter may extend this period as circumstances may warrant. This Order and period of exclusion, along with the periods of exclusion in the Court's prior General Orders on this subject (GO 20-02 and 20-03) are incorporated by reference as a specific finding pursuant to 18 U.S.C. § 3161(h)(7)(A) in the record of each pending case where the Speedy Trial Act applies. *See Zedner v. United States*, 547 U.S. 489, 506-07 (2006).


The Court recognizes the right of criminal defendants to a speedy and public trial under the Sixth Amendment to the United States Constitution, and the particular application of that right in cases involving defendants who are detained pending trial. Therefor, in the event any affected party disagrees with the Court's analysis regarding the time excluded under the Speedy Trial Act, he or she may move for reconsideration in the individual case. Likewise, the government may seek reconsideration. Any motion for reconsideration shall be directed to the district judge assigned to the matter.

15. PRIOR GENERAL ORDERS. Except to the extent amended by this General Order, all other provisions of General Orders 20-02 and 20-03 remain in effect.

DATED this 17th day of April, 2020.

ENTERED

APR 17 2020
VANESSA L. ARMSTRONG
BY  DEPUTY CLERK


Greg N. Stivers, Chief Judge
United States District Court