

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

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

**GENERAL ORDER
NO. 20-11**

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In an effort to balance the various interests implicated by the COVID-19 public health emergency, the Court amends and supplements General Orders 20-02, 20-03, 20-05, 20-07, 20-08, and 20-09 to allow for the resumption of certain court operations and in-court proceedings as well as to continue certain deadlines. Accordingly, the Court hereby **ORDERS** as follows:

1. TRIALS. All civil and criminal trials scheduled to begin on or before July 10, 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 July 10, 2020, are continued pending further Order of the Court. Individual judges may continue trial-specific deadlines in civil cases at their discretion.

3. CRIMINAL HEARINGS. In-court proceedings may resume by order of the presiding judge effective June 15, 2020. All in-court hearings in criminal cases that are scheduled to occur on or before June 12, 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.

4. AUTHORIZATION TO USE VIDEO AND TELEPHONE CONFERENCING FOR CRIMINAL PROCEEDINGS PURSUANT TO THE CARES ACT. Effective June 15, 2020 the Court's authorization made pursuant to the CARES Act and General Order 20-05 to allow for the use of video or telephone conferencing for felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure, shall terminate. The Court continues to authorize, on its own motion, the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, in the criminal proceedings specifically enumerated in Section 15002(b)(1) of the CARES Act, to wit:

- a. Detention hearings under section 3142 of title 18, United States Code;
- b. Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;
- c. Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;

- d. Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- e. Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- f. Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- g. Pretrial release revocation proceedings under section 3148 of title 18, United States Code;
- h. Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- i. Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and
- j. Proceedings under chapter 403 of title 18, United States Code (commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

Pursuant to Section 15002(b)(3) of the CARES Act, this authorization will remain in effect for the 90-day time period referenced in General Order 20-05. If emergency conditions continue to exist 90 days from the entry of that General Order, the Chief Judge of the Court shall review this authorization and determine whether to extend it.

5. CIVIL HEARINGS. In-court proceedings in civil cases may resume by order of the presiding judge effective June 15, 2020.

6. COURT PROCEEDINGS GENERALLY.

- a. **Face Coverings.** All persons present during court proceedings shall wear a face covering. The presiding judge shall have the discretion to make exceptions for criminal defendants, witnesses, and other individuals.
- b. **Signing and Use of Paper Documents.** In order to limit the physical exchange of documents, any signature required on a document will be made via a Court-supplied iPad to the extent practicable.
- c. **Public Access.** All in-person proceedings will be open to the public, however, the court security officers shall ensure that no more than 30% of each courtroom’s public seating is occupied during any proceeding. All persons must use hand sanitizer from the provided station immediately before entering the courtroom and shall maintain social distancing.

7. PETIT JURY POOLS.

- a. **Terms of Service.** Due to the suspension of jury trials within the Western District, all petit jury pools summoned to serve a term of jury service in the Western District

for any period between April 6, 2020, and July 5, 2020, shall serve an amended term of service beginning on July 13, 2020, as follows:

- i. **Louisville Division**. The petit jurors who were summoned to serve a two-month term from May 4, 2020, to July 5, 2020, shall now serve a two-month term from July 13, 2020, to September 6, 2020.
 - ii. **Bowling Green, Paducah, and Owensboro Divisions**. The petit jurors who were summoned to serve a three-month term from April 6, 2020, to July 5, 2020, will now serve a three-month term from July 13, 2020, to October 4, 2020.
- b. **Pool Sizes**. In order to account for the likelihood of increased juror excuse and deferral requests resulting from the COVID-19 epidemic, the Clerk shall supplement the above-reference jury pools by increasing the number of prospective jurors summoned by 50% per pool.

General Order 2020-01, which directed the Clerk to draw the names of a specific number of persons to serve as petit jurors for terms of a specific duration, is amended to the extent it conflicts with the provisions herein.

8. GRAND JURY. All grand jury proceedings are **CONTINUED** through June 16, 2020.

9. EMERGENCY MATTERS. Absent exceptional and unavoidable circumstances, and until June 15, 2020, 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.

10. NATURALIZATION CEREMONIES. All naturalization ceremonies scheduled through September 30, 2020, are **POSTPONED** and will be rescheduled at a later date.

11. SETTLEMENT CONFERENCES. Effective June 15, 2020, in-person settlement conferences may be scheduled at the discretion of the assigned judge.

12. MISDEMEANOR AND PETTY OFFENSE DOCKET. All misdemeanor, traffic and petty offense dockets scheduled in this Court through June 30, 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.

13. CLERK'S OFFICE. Effective June 15, 2020, and until otherwise ordered, the Clerk's office shall be open to the public from 10:00 AM local time until 2:00 PM local time.

14. PRO SE FILINGS. In order to limit the need for *pro se* litigants to travel to the Courthouses in order to file documents with Court, General Order 20-04 shall remain in effect until otherwise ordered.

15. COURTHOUSE ACCESS. Effective June 15, 2020:

- a. **Public Entry Hours.** The Courthouses shall be open to the public from 9:00 a.m. until 5:00 p.m.
- b. **Face Coverings.** All persons over two years of age seeking entry to the any of the Courthouses within the Western District shall wear a face covering or mask at all times within all public areas of the Courthouses. The mask must completely conceal the wearer's nose and mouth at all times.
- c. **Hand Sanitizer.** All persons over two years of age will be required to apply hand sanitizer immediately before entry.
- d. **Entry Restrictions.** The following individuals shall not enter the Courthouses:
 - i. Persons not wearing a mask or face covering;
 - ii. Persons who have been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19 within 14 days prior to their visit.
 - iii. Persons who have been asked to self-quarantine by any doctor, hospital, or health agency within 14 days prior to their visit.
 - iv. Persons with fever, cough, or shortness of breath.
- e. **Screening Questions.** All members of the public seeking entry to a Courthouse will be required to answer questions related to the entry restrictions at section 15(d). All such persons must provide their name and telephone number or other contact information.


The United States Marshal, his Deputies, and the Court Security Officers shall enforce this Order and deny entry to, or remove, any individuals who refuse or fail to comply with these requirements.

16. SPEEDY TRIAL ACT CONSIDERATIONS. The Court continues to find that 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 June 12,

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. Therefore, 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.

DATED this 27th day of May, 2020.



Greg N. Stivers, Chief Judge
United States District Court

ENTERED
VANESSA L ARMSTRONG, CLERK
May 27, 2020
U.S. DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
