

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

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

**GENERAL ORDER
NO. 20-23**

Due to the continuing spikes in the number of individuals testing positive for the COVID-19 virus within the Western District of Kentucky, many of its counties are currently in the “red zone.”¹ While the Court has implemented a variety of measures designed to protect the public, counsel, litigants, and Court staff, in order to limit the number of persons whose presence is required in the Courthouses, the Court hereby **ORDERS** as follows:

1. TRIALS. All civil and criminal jury trials scheduled to begin on or before December 31, 2020, are continued and shall be rescheduled by separate order of the presiding judge. No jury trial shall be scheduled to begin on or before January 2, 2021.

2. TRIAL DEADLINES. All trial-specific deadlines in criminal cases scheduled for trial on or before December 31, 2020, are continued pending further order of the Court. Individual judges may continue trial-specific deadlines in civil cases at their discretion.

3. LOUISVILLE PETIT JURY POOL. Due to the suspension of jury trials within the Western District, the petit jurors who were summoned to serve a two-month term of service in the Louisville division from November 2, 2020, to December 31, 2020, shall now serve an amended two-month term of service from January 4, 2021 to March 7, 2021.

4. COURT HEARINGS. Each presiding judge shall retain the discretion to conduct hearings in-person or by way of video or telephone conferencing, consistent with the provisions of Sections 15002(b)(1) and 15002(b)(2) of the CARES Act and General Order 20-20.

5. GRAND JURY. All grand jury proceedings are continued through December 31, 2020. 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, General Order 20-18 is vacated to the extent that it directs the Clerk to draw names of persons having the qualifications prescribed by law to serve as grand jurors in the Louisville and Bowling Green divisions beginning on December 1 and December 9, 2020, respectively.


¹ A county is classified as a red zone when it reports more than 25 new daily cases of COVID-19 per every 100,000 people. Governor Beshear has made a series of recommendations for those residing in counties located within “red zones,” including that they avoid hosting or attending gatherings of any size. The Centers for Disease Control (“CDC”) has issued guidelines which provide that any decision to hold a given event or gathering, and the size thereof, should be determined based on state guidelines and local conditions.

6. SPEEDY TRIAL ACT CONSIDERATIONS. The Court finds that due to the public health risks associated with summoning large groups of prospective jurors, the public's perceptions of the risks associated with jury service, and its reduced ability to obtain an adequate spectrum of jurors, 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 December 31, 2020. The district judge assigned to the matter may extend this period as circumstances may warrant. This Order and period of exclusion is 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. No party impacted by the Court's analysis regarding the time excluded under the Speedy Trial Act is foreclosed from seeking relief from this General Order.

This Order shall be effective November 4, 2020. The Court shall vacate, amend, or extend this Order no later than December 31, 2020. All provisions of previous General Orders concerning court operations that are not inconsistent with this Order shall remain in effect.

DATED: November 3, 2020



Greg N. Stivers, Chief Judge
United States District Court

ENTERED
VANESSA L ARMSTRONG, CLERK
Nov 03, 2020
U.S. DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
