

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Miscellaneous Case No. 2:20-mc-00052



IN RE: COURT OPERATIONS IN LIGHT OF
 THE EXIGENT CIRCUMSTANCES
 PRESENTED BY THE COVID-19 PANDEMIC

GENERAL ORDER #3

On March 13, 2020 a General Order was entered recognizing the exigent circumstances created by the COVID-19 pandemic and continuing all jury matters in the District for a period of two weeks. On March 18, 2020, General Order #2 was entered that imposed certain restrictions upon entry to the courthouses in the District, in light of guidance issued by local and national public health authorities. The Governor of West Virginia has declared a state of emergency and has issued several Executive Orders closing public schools, businesses, and public offices in an attempt to slow the spread of the COVID-19 disease. The President of the United States has issued Coronavirus Guidelines for America¹ urging everyone to work from home wherever possible.

¹ *The President's Coronavirus Guidelines for America*, https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf (last visited March 22, 2020).

The Centers for Disease Control and Prevention and other public health authorities have advised taking precautions to reduce the possibility of exposure to the virus in order to slow the spread of the disease. Preventing the spread of the COVID-19 pandemic requires limiting public contact to essential matters.

Participants in court proceedings are necessarily often in close proximity to each other. At the time the court issued its first General Order relating to exigent circumstances in light of the COVID-19 pandemic, there were no confirmed cases in West Virginia. That is no longer the case, and in fact there has been a confirmed diagnosis of an individual who has significant access to a judicial building of the state court system, triggering that building to be closed² on March 21, 2020. There is understandable concern that inadequate testing available at this time to monitor the transmission of the disease makes it likely that the disease is substantially more widespread than it appears. Moreover, West Virginia has a relatively high elderly population and greater incidence of other medical conditions that can make individuals more vulnerable to the virus.

IT IS THEREFORE ORDERED, that all civil and criminal petit jury selections and trials scheduled to commence now through April 24, 2020 before any district or magistrate judge in the Southern District of West Virginia are CONTINUED until further order of the Court; and it is further

² *Health Department Identifies a COVID-19 Case on an Individual Who is Now Being Treated at CAMC Hospital— Kanawha County Commission to Shut Down Access to Judicial Building:* https://s3.amazonaws.com/wvmetro-uploads-prod/2020/03/Judicial_building_closure.pdf?x35760 (last visited March 21, 2020).

ORDERED that with regard to criminal trials, due to the Court's reduced ability to obtain an adequate spectrum of jurors and the effect of the above public health recommendations on the availability of counsel and Court staff to be present in the courtroom, the time period of the continuances implemented by this Order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuances outweigh the best interests of the public and each defendant in a speedy trial, pursuant to 18 U.S.C.

§ 3161(h)(7)(A); and it is further

ORDERED that all other in-person civil and criminal proceedings in the U.S. District Court for the Southern District of West Virginia, including court appearances, trials, hearings, settlement conferences, admission ceremonies, and grand jury meetings now scheduled to occur from March 23, 2020, through April 24, 2020, are POSTPONED and will be rescheduled at a later date, unless the presiding judge in an individual case issues an order after the date of this Order directing that a particular proceeding will be held on or before April 24, 2020. Using rescheduling information that will be provided by each presiding judge, the Clerk's Office will docket this General Order in each case, and further indicate on the docket sheet what filing deadlines have been changed. This process will reduce individualized workload for the court and litigants but will take approximately twenty-four to forty-eight hours after the date of this order to complete. Parties are therefore encouraged to monitor the docket sheet for a period of time in order to determine what deadlines or schedule dates have been changed in each case; and it is further

ORDERED that the naturalization ceremony scheduled for May 4, 2020 is POSTPONED; and it is further

ORDERED that due to the unavailability of a grand jury in this District, the 30-day time period for filing an indictment or an information is TOLLED as to each defendant during the time period March 13, 2020 through April 24, 2020, in alignment with 18 U.S.C. § 3161(b); and it is further

ORDERED that the Court will remain open for emergency criminal, civil, and bankruptcy matters related to public safety, public health and welfare, and individual liberty; and it is further

ORDERED, pursuant to 41 C.F.R. 102-74.375, in order to provide for the orderly conduct of government business, the U.S. Courthouses in the Southern District of West Virginia are closed to the general public effective immediately. Only litigants with scheduled in-person proceedings, parties who must appear in the courthouse as a direct consequence of a court ruling, counsel of record, investigators or employees of counsel, credentialed press, and authorized persons who display government or other identifying credentials to Court Security Officers may be present in the courthouses. Members of the public will retain access to drop boxes at the entrance of each courthouse to deposit papers between 8:30 a.m. and 5:00 p.m. Monday through Friday. Postal and common courier deliveries will continue to be processed in the usual fashion; and it is further

ORDERED that this Order does not toll any applicable statute of limitations. Electronic filing through CM/ECF will remain available, and self-represented

litigants may deposit papers in drop boxes at each courthouse between 8:30 a.m. and 5:00 p.m., Monday through Friday. For emergency criminal matters, please contact the assigned magistrate judge. For emergency civil matters, please contact the Clerk's Office at (304) 347-3000. For emergency bankruptcy matters, please contact the Bankruptcy Court Clerk's Office at (304) 347-3003; and it is finally

ORDERED that the courthouse entry restrictions set forth in General Order #2 continue to remain in effect for any person authorized to enter a courthouse in this District.

SO ORDERED this 23rd day of March, 2020.



THOMAS E. JOHNSTON, CHIEF JUDGE