

APR 21 2021

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

Thomas M. Gould, Clerk
U.S. District Court
W.D. OF TN, Jackson

IN RE: CONTINUED COURT)
OPERATIONS UNDER THE) Administrative Order No. 2021-12
EXIGENT CIRCUMSTANCES)
RESULTING FROM COVID-19)
OUTBREAK)

The CARES Act, Title V, § 15002(b)(3)(A), provides that upon the determination of the Judicial Conference of the United States “that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. § 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID–19) will materially affect the functioning of either the Federal courts generally or a particular district court of the United States,” the chief judge of any judicial district covered by the finding is permitted to authorize the use of video teleconferencing (or telephone conferencing where video teleconferencing is not reasonably available) for certain proceedings. The Judicial Conference of the United States made such a determination on March 29, 2020. Following the presidential declaration of a state of emergency under the National Emergencies Act and the determination of the Judicial Conference under the CARES Act, the Court issued a series of Administrative Orders between March 17, 2020 and February 24, 2021, regarding continuing court operations under the exigent circumstances resulting from the COVID-19 outbreak in the Western District of Tennessee.

At all times during the declared state of emergency, the Court has continued to monitor the spread of COVID-19 in this District and received updated guidance from the CDC and federal, state, and local public health authorities. Based on the best information available about the state of the public health in the Western District of Tennessee and for the sake of the health and safety of all court staff and others with business before the Court, the Court hereby extends and otherwise modifies its previous Administrative Orders regarding continuing court operations under the exigent circumstances resulting from the COVID-19 outbreak as follows:

- 1) Subject to the discretion of the Presiding Judge, jury selections and jury trials set to begin between May 3, 2021 and June 4, 2021 will proceed as scheduled. Absent an order to the contrary from the Presiding Judge, parties should comply with all of the Presiding Judge’s pretrial deadlines and instructions and otherwise be ready to

proceed to trial.

- 2) Consistent with guidance from the Administrative Office of the U.S. Courts, the Centers for Disease Control and Prevention, and state and local health authorities, the Court continues to find that masking and social distancing in courtrooms and other court facilities should be maintained to mitigate the effects of the ongoing pandemic. The Court can accommodate a limited number of persons in court facilities because of space restrictions imposed by the required safety precautions and health-related protocols.

Based on the limited facilities available to the Court for in-person proceedings, the Court cannot currently hold multiple jury trials simultaneously. If more than one jury trial is scheduled to occur at the same time, the Presiding Judge in each case will determine how to proceed and notify the parties accordingly. Where two or more cases are scheduled to begin trial on the same date, priority may be given to one case over the other. In that situation, the Presiding Judge retains the discretion to give priority to (i) criminal cases over civil cases, (ii) any criminal case that has remained pending on the Presiding Judge's docket longer than the other case(s) set for the same date; (iii) any criminal case where the defendant is currently being held in detention; (iv) any criminal case with three (3) or fewer defendants to be tried in the same proceeding; or (v) any criminal case presenting any other factor bearing on the speedy trial rights of the accused.

- 3) Due to current limitations on the number of trials the Court can conduct, in all criminal jury trials continued during the effective dates of this Administrative Order and any other criminal jury trial heretofore continued by previous Administrative Orders, the Court 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 the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A).

Therefore, just as the Court did in Administrative Order No. 2020-12 (which excluded time from March 17, 2020 to April 17, 2020), and Administrative Order No. 2020-19 (which excluded time from April 17, 2020 to May 1, 2020), and Administrative Order No. 2020-21 (which excluded time from May 1, 2020 to May 30, 2020), and Administrative Order No. 2020-26 (which excluded time from May 30, 2020 to July 31, 2020), and Administrative Order No. 2020-30 (which excluded time from July 31, 2020 to August 28, 2020), and Administrative Order No. 2020-33 (which excluded time from August 28, 2020 to September 11, 2020), and Administrative Order No. 2020-34 (which excluded time from September 14, 2020 to October 2, 2020), and Administrative Order No. 2020-37 (which excluded time from October 5, 2020 to October 30, 2020), and Administrative Order No. 2020-39 (which excluded time from November 2, 2020 to November 30, 2020), and Administrative Order No. 2020-42 (which excluded time from December 1, 2020 to January 15, 2021), and Administrative Order No. 2020-45 (which excluded time from January 18, 2021 to January 29, 2021), and Administrative Order No. 2021-01 (which excluded time from January 29, 2021 to February 12, 2021), and Administrative Order No. 2021-06 (which excluded time from February 12, 2021 to March 31, 2021), and Administrative Order No. 2021-08 (which excluded time from

March 26, 2021 to April 30, 2021),¹ the period of time from May 3, 2021 to June 4, 2021 will be excluded for speedy trial purposes.

- 4) No new grand juries shall be empaneled through June 4, 2021. All proceedings of the currently constituted grand juries in the Eastern and Western Divisions are suspended through June 4, 2021, except in the following circumstances:

(a) certain time sensitive cases, including cases where the statute of limitations will run and cases where an indictment is necessary to comply with the 30-day time limit under 18 U.S.C. § 3161;

(b) any cases where the offense charged involves a crime of violence; use or possession of a firearm when a defendant's prior criminal history or the underlying facts of the case prohibit such use or possession; threatened or actual bodily harm to the victim of a crime victim; matters of national security or terrorism, public corruption, and immigration cases where there is particular urgency, including where a new crime committed by an alien is alleged; and cases in which there is a minor child victim;

(c) any case in which the potential statutory maximum penalty is life in prison;

(d) any case where the defendant is a danger to the community or a flight risk; and

(e) any other matter which, based upon the determination and discretion of the United States Attorney for the Western District of Tennessee, is urgent and necessary to protect public safety or to advance the mission and priorities of the Department of Justice.

- 5) The Court will continue to hold other in-person proceedings in accordance with the protocols and procedures detailed in Administrative Order 2020-26. These limited in-person proceedings, including non-jury trials, should continue to involve no more than fifteen (15) people in the courtroom.

The Court will continue to evaluate existing circumstances and updated guidance from the CDC and federal, state, and local public health authorities. The public is encouraged to continue utilizing available Court services while following all applicable public health guidelines.

FOR THE COURT this 21st day of April, 2021,

s/ S. Thomas Anderson

S. THOMAS ANDERSON

CHIEF UNITED STATES DISTRICT JUDGE

¹ Administrative Order No. 2021-08 amended Administrative Order No. 2021-06 to continue jury selections and jury trials through March 25, 2021. Administrative Order No. 2021-08 therefore amended the time excluded for speedy trial purposes to run from March 26, 2021 to April 30, 2021.