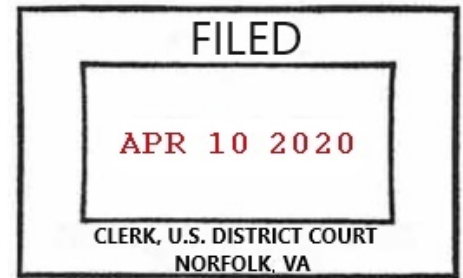


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA



In re:
COURT OPERATIONS UNDER THE EXIGENT
CIRCUMSTANCES CREATED BY THE OUTBREAK
OF CORONAVIRUS DISEASE 2019 (COVID-19):
UPDATES TO THE MODIFICATIONS OF COURT
OPERATIONS AND EXTENSION OF THE
POSTPONEMENT OF IN-PERSON PROCEEDINGS

Case No. 2:20mc7

General Order No. 2020-12

The United States District Court for the Eastern District of Virginia has continued to closely monitor the outbreak of Coronavirus Disease 2019 (COVID-19), as well as the developing guidance from the Centers for Disease Control and Prevention ("CDC"),¹ and the increasingly stringent responses from all branches and levels of government. This includes the CDC's recommendation that all Americans avoid close contact with other people (i.e., being within six feet) and the "stay home" orders issued by at least forty-one states. In the past several days, the CDC has provided updated guidance on the efficacy of members of the public wearing cloth face coverings, now recommending that they be worn by all Americans when around others in light of increased concerns regarding: (1) the extent of asymptomatic transmission; and (2) the potential for the virus to be transmitted

¹ See <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>.

through mere conversations or breathing rather than requiring a cough or sneeze to render the virus airborne.²

On March 24, 2020, this Court issued General Order 2020-07, which postponed most in-person proceedings in this District scheduled through May 1, 2020. Subsequently, on March 30, 2020, the Governor of Virginia issued a "stay home" order that is in effect until June 10, 2020, instructing all Virginians to remain in their homes unless leaving to engage in an activity designated as permissible by such "stay home" order. All states sharing a border with Virginia, as well as the District of Columbia, have also issued similar statewide/districtwide "stay home" orders. The statewide response in Virginia acknowledges the reality that conditions will remain dangerous even after the future "peak" of COVID-19 cases in Virginia, and thus, the Virginia restrictions extend into early June, to include the closure of all K-12 schools for the remainder of the 2019-2020 school year. The Virginia stay home order issued by the Governor expressly states that the current end date of June 10, 2020, applies unless it is "amended or rescinded by further executive order." Executive Order 55 (March 30, 2020).³

² See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

³ [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-(COVID-19).pdf).

Notwithstanding the substantial restrictions adopted in Virginia and most other states, the CDC continues to report approximately 30,000 new COVID-19 cases in the United States each day, and more than 16,000 Americans have died from COVID-19 over the last several weeks. Moreover, the available evidence suggests that all government and private entities seeking to track the spread of COVID-19 face difficulty quantifying the scope of the spread because many COVID-19 cases go undetected due to varying degrees of symptoms suffered by infected individuals and because there is a limited supply of available COVID-19 tests and/or lab capacity to process such tests. The challenges involved in implementing large scale testing have caused testing centers within our District to shut down on more than one occasion due to limited testing supplies and/or the number of collected samples that were pending processing in local laboratories.⁴

The United States currently has more than four times as many active COVID-19 cases as any other country, and while Virginia has not yet experienced the same volume of cases as some other states,

⁴ Testing limitations prevent some individuals exhibiting symptoms consistent with COVID-19 from learning whether they are infected, and thus contagious, and causes public and private decisionmakers to operate based on incomplete data. For example, on Wednesday of this week, the Virginia Department of Health reported just over 600 hospitalizations in Virginia for confirmed COVID-19 cases, whereas the Virginia Hospital and Healthcare Association reported approximately 600 additional people currently receiving inpatient hospital care that were awaiting the results of their COVID-19 tests. The delays in obtaining test results, even in the most severe cases requiring hospitalization, underscore the difficulty faced by decisionmakers in determining an appropriate target date for resuming wide-spread business and governmental functions.

more than 700 people in Virginia have been hospitalized and more than 120 have died from COVID-19. Moreover, the areas of greatest concentration of COVID-19 cases in Virginia are located in cities/counties adjacent to our Alexandria, Richmond, Newport News and Norfolk Courthouses.⁵

After careful consideration of the risks to the public, litigants, counsel, court employees, and judges, and after consultation with appropriate stakeholders, it is hereby **ORDERED** that:

(1) Consistent with the timeframe adopted by the Governor of Virginia, it is necessary and appropriate to extend the time period for the suspension of all non-critical and non-emergency in-person proceedings in our Courthouses through **June 10, 2020, unless such date is amended by further order of the Chief Judge.** It is appropriate to extend the suspension of in-person proceedings at this time, though it is several weeks prior to the expiration of the suspension currently in place (see Gen. Order 2020-01⁶; Gen. Order 2020-07⁷), in light of the advance preparations required in the weeks prior to a scheduled court proceeding, to include

⁵ See <http://www.vdh.virginia.gov/coronavirus/>.

⁶ General Order 2020-01 suspended the misdemeanor, traffic, and petty offense dockets through April 30, 2020. By issuance of this Order, in-person proceedings for such dockets are continued through June 10, 2020.

⁷ General Order 2020-07 suspended all other non-critical/non-emergency in-person proceedings through May 1, 2020, and this order extends such suspension through June 10, 2020.

preparations by litigants, counsel, the United States Marshals Service, the United States Probation Office, judges of this Court, and court employees. Moreover, the Court's decision to extend the suspension of in-person proceedings takes into consideration the fact that the Court has authorized video conferencing and teleconferencing for appropriate proceedings pursuant to the CARES Act and General Orders 2020-09 and 2020-11.

Accordingly, all civil and criminal in-person proceedings in the United States District Court for the Eastern District of Virginia, including all court appearances, trials, hearings, and settlement conferences, scheduled to occur through **June 10, 2020**, are **POSTPONED** and **CONTINUED**, and will be rescheduled at a later date, unless such proceeding: (1) falls within the class of previously defined "critical" criminal proceedings (initial appearances, preliminary hearings, arraignments, detention hearings, and the issuance of warrants); or (2) the presiding judge in an individual case issues, or has issued, an order after the filing of General Order 2020-03 directing that a particular critical or emergency in-person proceeding will be held on or before **June 10, 2020**, because a manifest injustice would result if such proceeding were not conducted on an expedited basis. While no grand juries will be meeting formally during this suspension,⁸

⁸ In extreme circumstances, as dictated by the interests of justice, the Chief Judge may grant the U.S. Attorney permission to convene or recall a previously empaneled grand jury, with the requirements that the grand jurors

the United States is permitted to seek documents and testimony for return dates after **June 10, 2020**. Furthermore, nothing in this Order shall be interpreted as postponing or cancelling any previously scheduled, or subsequently scheduled, "remote" proceedings scheduled by a presiding judge in any criminal or civil cases, regardless of whether such remote proceeding is a "critical or emergency" proceeding.⁹

(2) Unlike two prior General Orders issued by this Court (Gen. Orders 2020-03 and 2020-07), the instant Order does not further extend any filing deadlines, and any further briefing extensions necessary due to the COVID-19 nationwide emergency will be handled on a case-by-case basis by the presiding judge in each case.

(3) For the same reasons stated above outlining the increasing severity of the state and federal responses to COVID-19, and for the reasons explained in detail in General Orders 2020-06 and 2020-07, to include the procedural challenges to seating a jury in the midst of the COVID-19 pandemic and the Governor's stay home order, the period of May 2, 2020, through June 10, 2020, is hereby excluded from the respective speedy trial calculations for both

be spread out in a large courtroom so that at least six feet of space is maintained between grand jurors and that they be permitted to wear their own masks. No new grand juries may be empaneled during the suspension.

⁹ Pursuant to § 15002(b)(2) of the CARES Act, felony guilty pleas and felony sentencings can only be conducted remotely when the defendant consents and the presiding judge expressly finds that such proceeding cannot be further delayed without serious harm to the interests of justice.

the return of an indictment and the commencement of trial, pursuant to 18 U.S.C. § 3161(h)(7)(A). The Court makes such “ends of justice” findings after balancing the factors discussed in 18 U.S.C. § 3161(h)(7)(B), as the Court finds that the exclusion of such time from the respective speedy trial periods is necessary to balance the health and safety of jurors and prospective jurors, court employees, criminal defendants, counsel, judges, and the public with the Constitutional responsibility to continue federal court operations during the COVID-19 outbreak. In particular, the expanding number of COVID-19 hospitalizations and deaths in Virginia, and the statewide “stay home” order currently in place through June 10, 2020, mandates a robust response from our Court to protect the public health, with the need to protect the health of the public in the midst of a deadly nationwide pandemic outweighing the rights of the impacted defendants, and the public, to a speedy trial.

As indicated in prior General Orders, the U.S. Attorney is requested to file a motion and proposed order in all criminal matters in which an indictment is delayed, or purportedly delayed, due to the absence of a sitting grand jury. See Zedner v. United States, 547 U.S. 489, 506 (2006). As to trial continuances, judges of this Court will handle case-specific speedy trial findings at the appropriate time.

(4) The Alexandria, Richmond, and Norfolk Courthouses remain open for drop box filings and for other appropriate purposes (such as critical and emergency in-person proceedings), however, counsel, litigants, and the public are encouraged to interact with the Court through electronic and other remote means whenever possible. Expanded use of video technology to facilitate remote proceedings is anticipated over the coming days and weeks and will provide the public and litigants with continued access to the federal Courts in this District. To the extent that litigants, employees, and the public seek to physically access our Courthouses, the undersigned judge established restrictions in General Orders 2020-03 and 2020-07 regarding which persons would be denied entry to the U.S. Courthouses and U.S. Probation Offices in the Eastern District of Virginia without prior permission from the Chief Judge. Those restrictions remain in place; however, restrictions (5) and (6) shall be updated to reflect the evolving CDC guidance regarding international travel and the developing COVID-19 outbreaks within the United States.

As such, based on updated CDC guidance, no person shall enter our Courthouses or Probation Offices without prior permission if he or she traveled to any foreign country in the fourteen days prior to seeking entry to such facility. Considering the available data regarding the total number of confirmed COVID-19 cases by state, as well as the number of confirmed COVID-19 cases per

100,000 residents by state, the listed U.S. States in restrictions (5) and (6) shall be updated to also include those who have traveled to the following states in the last fourteen days: the State of Michigan, the Commonwealth of Pennsylvania, the State of Louisiana, the Commonwealth of Massachusetts, and the State of Connecticut. These updates to the visitor restrictions are designed to limit the spread of COVID-19 within our District, and are subject to appropriate exceptions made by the Chief Judge. The attached updated versions of Public Notices shall be posted outside of the respective U.S. Courthouse in the District.

It is so ORDERED.

/s/ 

Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
April 10, 2020

PUBLIC NOTICES - VISITOR RESTRICTIONS

Attached Notices:

- Alexandria Courthouse
- Norfolk Courthouse
- Richmond Courthouse



Alexandria Court Access Notice regarding Coronavirus (COVID-19)

Due to the ongoing coronavirus (COVID-19) outbreak, please read the below Order before entering the Courthouse:

By Order of the Chief Judge, the following persons shall not enter any U.S. Courthouse or U.S. Probation Office in the Eastern District of Virginia without prior permission from the Chief Judge:

- (1) any persons who have been diagnosed with COVID-19;
- (2) any persons who have come into contact with any individual who has been diagnosed with COVID-19;
- (3) any persons who have been instructed to self-quarantine by any doctor, hospital, health practitioner, or health agency;
- (4) any persons who reside with, or have had close contact with, any individual who has been instructed to self-quarantine by any doctor, hospital, health practitioner, or health agency;
- (5) any persons who have, within the last fourteen days, **traveled internationally to ANY COUNTRY** outside the United States, or have traveled through or visited any of the following states:

- STATE OF NEW YORK
- STATE OF NEW JERSEY
- STATE OF CALIFORNIA
- STATE OF WASHINGTON
- STATE OF MICHIGAN
- COMMONWEALTH OF PENNSYLVANIA
- STATE OF LOUISIANA
- COMMONWEALTH OF MASSACHUSETTS
- STATE OF CONNECTICUT

(6) any persons who reside with, or have had close contact with, any individual who, within the last fourteen days, has traveled internationally or been in one of the states listed above.

Anyone attempting to enter in violation of these protocols will be denied entry. If you are scheduled to appear at a U.S. Courthouse or Probation Office in this District and are unable to do so because of the restrictions in this Order, you are directed to proceed as follows:

- If you are represented by an attorney, please contact your attorney;
- If you are an attorney and are scheduled to appear in court before a judge, please contact that chambers directly;
- If you are scheduled to meet with a Pretrial Services Officer, please contact the office of Pretrial Services at (703) 299-2250;

- If you are scheduled to meet with a Probation officer, please contact the Probation Office at (703) 299-2300;
- If you are a juror, please contact the Jury Department at (703) 299-2104;
- For Bankruptcy matters, please contact the Bankruptcy Court Clerk's Office at (703) 258-1200;
- For District Court matters, please contact the District Court Clerk's Office at (703) 299-2100; and
- For U.S. Court of Appeals matters, please contact Patricia S. Connor, Clerk of Court at (804) 916-2700.

These restrictions will remain in place temporarily until it is determined to be safe to remove them. **Any person who thinks that they may have been exposed to COVID-19 should contact their healthcare provider immediately.**



Norfolk Court Access Notice regarding Coronavirus (COVID – 19)

**Due to the ongoing coronavirus (COVID-19) outbreak,
please read the below Order before entering the Courthouse:**

By Order of the Chief Judge, the following persons shall not enter any U.S. Courthouse or U.S. Probation Office in the Eastern District of Virginia without prior permission from the Chief Judge:

- (1) any persons who have been diagnosed with COVID-19;
- (2) any persons who have come into contact with any individual who has been diagnosed with COVID-19;
- (3) any persons who have been instructed to self-quarantine by any doctor, hospital, health practitioner, or health agency;
- (4) any persons who reside with, or have had close contact with, any individual who has been instructed to self-quarantine by any doctor, hospital, health practitioner, or health agency;
- (5) any persons who have, within the last fourteen days, **traveled internationally to ANY COUNTRY** outside the United States, or have traveled through or visited any of the following states:

- STATE OF NEW YORK
- STATE OF NEW JERSEY
- STATE OF CALIFORNIA
- STATE OF WASHINGTON
- STATE OF MICHIGAN
- COMMONWEALTH OF PENNSYLVANIA
- STATE OF LOUISIANA
- COMMONWEALTH OF MASSACHUSETTS
- STATE OF CONNECTICUT

(6) any persons who reside with, or have had close contact with, any individual who, within the last fourteen days, has traveled internationally or been in one of the states listed above.

Anyone attempting to enter in violation of these protocols will be denied entry. If you are scheduled to appear at a U.S. Courthouse or Probation Office in this District and are unable to do so because of the restrictions in this Order, you are directed to proceed as follows:

- If you are represented by an attorney, please contact your attorney;
- If you are an attorney and are scheduled to appear in court before a judge, please contact that chambers directly;
- If you are scheduled to meet with a Pretrial Services Officer, please contact Pretrial Services at (757) 222-7400;
- If you are scheduled to meet with a Probation Officer, please contact the Probation Office at (757) 222-7300;

- If you are a juror, please contact the Jury Department at (757) 222-7200;
- For Bankruptcy matters, please contact the Bankruptcy Court Clerk's Office at (757) 222-7500;
- For District Court matters, please contact the District Court Clerk's Office at (757) 222-7201 for civil matters and at (757) 222-7202 for criminal matters; and
- For U.S. Court of Appeals matters, please contact Patricia S. Connor, Clerk of Court at (804) 916-2700.

These restrictions will remain in place temporarily until it is determined to be safe to remove them. **Any person who thinks that they may have been exposed to COVID-19 should contact their healthcare provider immediately.**



Richmond Court Access Notice regarding Coronavirus (COVID – 19)

**Due to the ongoing coronavirus (COVID-19) outbreak,
please read the below order before entering the Courthouse:**

By Order of the Chief Judge, the following persons shall not enter any U.S. Courthouse or U.S. Probation Office in the Eastern District of Virginia without prior permission from the Chief Judge:

- (1) any persons who have been diagnosed with COVID-19;
- (2) any persons who have come into contact with any individual who has been diagnosed with COVID-19;
- (3) any persons who have been instructed to self-quarantine by any doctor, hospital, health practitioner, or health agency;
- (4) any persons who reside with, or have had close contact with, any individual who has been instructed to self-quarantine by any doctor, hospital, health practitioner, or health agency;
- (5) any persons who have, within the last fourteen days, **traveled internationally to ANY COUNTRY** outside the United States, or have traveled through or visited any of the following states:

- STATE OF NEW YORK
- STATE OF NEW JERSEY
- STATE OF CALIFORNIA
- STATE OF WASHINGTON
- STATE OF MICHIGAN
- COMMONWEALTH OF PENNSYLVANIA
- STATE OF LOUISIANA
- COMMONWEALTH OF MASSACHUSETTS
- STATE OF CONNECTICUT

(6) any persons who reside with, or have had close contact with, any individual who, within the last fourteen days, has traveled internationally or been in one of the states listed above.

Anyone attempting to enter in violation of these protocols will be denied entry. If you are scheduled to appear at a U.S. Courthouse or Probation Office in this District and are unable to do so because of the restrictions in this Order, you are directed to proceed as follows:

- If you are represented by an attorney, please contact your attorney;
- If you are an attorney and are scheduled to appear in court before a judge, please contact that chambers directly;
- If you are scheduled to meet with a Pretrial Services Officer, please contact Pretrial Services at (804) 916-2800;
- If you are scheduled to meet with a Probation officer, please contact the Probation Office at (804) 916-2500;

- If you are a juror, please contact the Jury Department at (804) 916-2212;
- For Bankruptcy matters, please contact the Bankruptcy Court Clerk's Office at (804) 916-2400;
- For District Court matters, please contact the District Court Clerk's Office at (804) 916-2220 for civil matters and at (804) 916-2230 for criminal matters; and
- For U.S. Court of Appeals matters, please contact Patricia S. Connor, Clerk of Court at (804) 916-2700.

These restrictions will remain in place temporarily until it is determined to be safe to remove them. **Any person who thinks that they may have been exposed to COVID-19 should contact their healthcare provider immediately.**