

FILED

APR 01 2020

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

IN RE:)
COURT OPERATIONS UNDER THE) **Administrative Order No. 261**
EXIGENT CIRCUMSTANCES CREATED) **(Second Amendment)**
BY THE COVID-19 VIRUS.)

SECOND AMENDED ADMINISTRATIVE ORDER

This Administrative Order amends and supersedes Second Administrative Order No. 261 dated March 21, 2020, relative to cases and proceedings before the District Court and the operation of the federal courthouses in East St. Louis and Benton, Illinois. Bankruptcy Court proceedings also are addressed below.

Administrative Order No. 262 dated March 23, 2020, relating to initial appearances in criminal cases, will be amended separately. Administrative Order No. 263 dated March 30, 2020, authorizing the video teleconferencing and telephone conferencing in certain criminal proceedings pursuant to the CARES Act and addressing public and press access to those proceedings, remains in effect and will be amended as circumstances necessitate.

I. Implementation of the COOP/COVID-19 Plan

The current COVID-19 outbreak has impacted the Southern District of Illinois, all 50 states, and countries around the world. Although for many this disease appears to cause only flu-like symptoms, for others it can pose a serious risk, even death. There is currently no vaccine to prevent COVID-19. On March 29, 2020, the head of the Centers for Disease Control and Prevention (“CDC”) predicted millions of infections and between 100,000 and 200,000 deaths. The Governor of Illinois declared a disaster and entered a

“stay-at-home” Executive Order now in effect until April 30, 2020. On March 29, 2020, the Judicial Conference of the United States declared that emergency conditions caused by the COVID-19 outbreak are materially affecting, and will continue to materially affect, the functioning of the federal courts generally.

The CDC and local public health officials have advised that the best way to prevent illness is to avoid opportunities for exposure. The virus is thought to spread mainly from person-to-person, particularly between people who are in close contact with one another (within about 6 feet) and through contact with contaminated surfaces. The Court finds, for the reasons stated, that it cannot apply the recommended social distancing measures and simultaneously continue its operations in the usual way without endangering the health of defendants, counsel, witnesses, the public, and court personnel.

IT IS THEREFORE ORDERED that the undersigned Chief Judge and chair of the district’s Security Committee—after consultation with the judges of this district, the United States Marshals Service, the Federal Protective Service, and the General Services Administration building managers—activates and implements the district’s COOP/COVID-19 Plan, effective through May 3, 2020. In accordance with the Plan, and pursuant to 41 C.F.R. § 102-74.375(b), access to the federal courthouses in East St. Louis and Benton will be limited, and the operations of the District Court, Bankruptcy Court, and the Probation and Pretrial Services Office will be altered accordingly.

IT IS FURTHER ORDERED that, consistent with the COOP/COVID-19 Plan, and after consultation with the Human Resources Division of the Administrative Office of the United States Courts, all employees of the District Court are directed to telework until

May 3, 2020, except when directed by their supervisors to report to the courthouse to perform essential functions. All District Court employees who, after consultation with their supervisors, are deemed unable to telework or perform alternate duties, will be placed on administrative leave.

II. Courthouse Closures and Restrictions

It is **ORDERED** that until **May 3, 2020**:

- The federal courthouses in East St. Louis and Benton will be **CLOSED** to the public, subject to exceptions allowing the Court to meet its constitutional duties and handle emergencies related to public safety, public health and welfare, and individual liberty. No members of the public, other than litigants with a scheduled proceeding, counsel of record in that matter, law enforcement having official duties connected with a court proceeding, investigators or employees of counsel, court interpreters and contract court reporters, credentialed press, and those otherwise authorized to enter on official business, may enter the U.S. District Courthouses in East St. Louis and Benton without prior permission from a judge of this district, the Clerk of Court, the Probation and Pretrial Services Office, or other agency housed in the courthouse(s).
- Any person falling into one of the following categories SHALL NOT ENTER this courthouse:
 - Persons who, in the last 14 days, traveled to the following countries or regions:
 - Austria, Belgium, China, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Iran, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Monaco, San Marino, Vatican City, United Kingdom, or Ireland.
 - Any other country or region that is the subject of a Level 3 Travel Health Notice issued by the CDC or any domestic area subject to a lawfully issued quarantine order or functional equivalent.

- Persons who reside or have had close contact within the last 14 days with someone who has been in one of the countries listed above or any other country CDC-labeled Level 3.
 - Persons who have been asked to self-quarantine by any doctor, hospital, or health agency.
 - Persons who have been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19.
- The Federal Protective Service and Court Security Officers will enforce the posted building restrictions. Visitors must review signage regarding the criteria for exclusion from the courthouse and answer whether they meet the criteria for restriction. Those answering “yes” to any of the criteria for restriction will be denied access to the courthouse. All other security requirements for entrance, such as showing proper identification and passing through a magnetometer, remain in effect.
- Members of the public not permitted access to the courthouse may call for assistance:
 - East St. Louis District Court Help Desk: 866-867-3169
 - Benton District Court Help Desk: 866-222-2104
 - East St. Louis Bankruptcy Court: 618-482-9400
 - Benton Bankruptcy Court: 618-435-2200
 - East St. Louis United States Marshals Service: 618-482-9336
 - Benton United States Marshals Service: 618-439-7701
 - Federal Public Defender’s Office:
 - Steve Welby, Federal Public Defender: 314-409-3172
 - Preston Humphrey, First Assistant: 314-496-3883
 - Laura Wildermuth, Administrative Officer: 618-910-7427
 - Additional information will be posted on each Court or agency’s public webpage.
 - All public events and ceremonies, such as school tours and civic events, are canceled, subject to being reset.

III. District Court Filings and Proceedings

- Filings will continue to be processed in civil and criminal cases via the Case Management/Electronic Case Filing (“CM/ECF”) system. For those without

access to CM/ECF, documents may be submitted by mail, or in the event of emergency, may be submitted by email to: **EmergencyFiling@ilsd.uscourts.gov**. All emergency filings must include an email address and phone number where the filer may be reached. Filings submitted by mail will be processed upon receipt, albeit at a delayed pace. (The impact of this delay is addressed below.) Payments by attorneys utilizing the CM/ECF system will be processed via credit card utilizing Pay.gov. Payments by check or money order will be accepted by mail and will be processed upon receipt, albeit at a delayed pace. **Cash payments will not be accepted during this period of exigent circumstances.** Any *pro se* litigant filing a case via mail who cannot secure a check or money order should submit his or her filing by mail, and the Clerk's Office will send a notice directing payment be submitted after the courthouses reopen. Any questions may be directed to:

- **East St. Louis District Court Help Desk: 866-867-3169**
- **Benton District Court Help Desk: 866-222-2104**
- All civil jury trial settings on or before May 31, 2020, are **STRICKEN**, to be reset by the presiding judge to a date on or after June 1, 2020, due the Court's inability to obtain an adequate spectrum of jurors, and the effect of public health recommendations and restrictions on the availability of defendants, counsel, witnesses, and court staff to be present in the courtroom. All other civil matters, including bench trials, hearings, and settlement conferences, scheduled between now and May 3, 2020, for an in-court appearance before any district or magistrate judge in the East St. Louis or Benton courthouses are **CONTINUED** pending further Order of the Court. Judges shall have discretion to utilize videoconferencing or telephone conferencing and will send the appropriate notice to counsel.
- In all civil cases, all current deadlines, whether set by the Court, the Federal Rules of Civil Procedure, or Local Rules, are extended by **30 days** from the current deadline set. This extension further extends those deadlines previously reset by Second Amended Administrative Order No. 261 dated March 21, 2020. **Amended Administrative Order No. 261 and this Second Amended Administrative Order No. 261 do not grant an extension of any deadlines imposed by Civil Rules 50(b) or (d), 52(b), 59(b), (d), or (e), or 60(b). See Fed. R. Civ. P. 6(b)(2).** If the COVID-19 public emergency results in the Clerk's Office being inaccessible, deadlines will be extended as set forth in Federal Rule of Civil Procedure 6(a)(3). **Litigants are cautioned that Amended Administrative Order No. 261 and this Second Amended Administrative Order No. 261 do not affect the rights to, or deadlines concerning, any appeal from any decision of this Court. The deadlines for filing a notice of appeal remain in place and must be followed to preserve appellate rights.** The Court

invites parties to file an extension of time to appeal under Appellate Rule 4(a)(5)(A) no later than 30 days after the time prescribed by Rule 4(a). If a timely extension motion is filed, then the Court deems that good cause exists for the extension in light of current public health concerns. If a filing is mailed by a prisoner, the traditional "mail box" rule shall govern its filing date. Given the public health emergency and the current inability of the Clerk's Office to process mail in the ordinary course, if a filing is mailed by a non-prisoner, the filing date shall be deemed to be the postmark date, subject to any party's right to move that a different date be used.

- This Order does not affect the Court's consideration of civil or criminal motions that can be resolved without in-court proceedings. The presiding judge, on a case-by-case basis and for good cause shown, may extend, shorten, or revoke the extensions granted by Amended Administrative Order No. 261 and this Second Amended Administrative Order No. 261.
- Any requirement imposed by this U.S. District Court that the United States Marshals Service, or anyone contracted on its behalf, effect personal service of process under Federal Rule of Civil Procedure 4(c)(3), 28U.S.C. § 1915(d), or 28 U.S.C. § 1916, for any cases pending in this district or any other district, is **SUSPENDED** until further Order of the Court. This Order does not apply to service of process by mail, waivers of service under Federal Rule of Civil Procedure 4(d), or service by electronic means, unless otherwise ordered by the Court. In any civil case in which the United States Marshals Service has suspended the service of process under this Order, the time for service under Federal Rule of Civil Procedure 4(m) is **TOLLED** until further Order of the Court. With regard to criminal matters before the Court, Administrative Order No. 262 dated March 23, 2020 (and any subsequent amendments) generally addresses the handling of criminal cases under the exigent circumstances created by the COVID-19 outbreak, including delays, the impact on the Speedy Trial Act, and provides for the appointment of the Federal Public Defender.
- Only essential proceedings will occur. Initial appearances, arraignments, detention hearings, and proceedings where in-person attendance is constitutionally required are deemed essential and will be conducted in person, absent any waiver permitted under the law. Administrative Order No. 263, in accordance with the CARES Act, authorizes the use of video conferencing and telephone conferencing for certain criminal proceedings, with the defendant's consent. As to all other currently set criminal matters during this period, judges shall have sole discretion to determine what proceedings are essential and should go forward, or whether videoconferencing or telephone conferencing can be utilized. Each judge will

so notify the affected parties and reset the matters as appropriate. Delays will be kept to a minimum, particularly with respect to pretrial detention. These continuances will not affect any other deadlines unless the presiding judge so indicates.

- For all matters set for an in-person hearing, counsel must make the necessary inquiries and notify the presiding judge and opposing counsel if that attorney or any individuals the attorney intends to bring to the courthouse meet any of the criteria for restriction from the courthouse. The presiding judge will have sole discretion to determine whether the proceeding should be delayed or can go forward, perhaps by alternative means.
- All detainees, upon arrival at the East St. Louis or Benton courthouses and before appearance in Court, shall undergo screening for fever and other outward signs of COVID-19 contamination; such screening shall be administered by and/or at the direction of the United States Marshals Service (USMS), or its agents or designees. The presiding judge must be notified if the detainee exhibits risk factors. The judge shall have the discretion to order the detainee returned to the facility from which he or she came. Video teleconferencing and telephone conferencing and other technologies may also be utilized as practicable, and participants in a hearing may be separated as directed by the presiding judge in the interest of public health.
- Due to the possibility that the Court's ability to obtain an adequate spectrum of jurors will be reduced, and the effect of public health recommendations and restrictions on the availability of defendants, counsel, witnesses, and court staff to be present in the courtroom, all criminal jury trials set on or before May 31, 2020, are **STRICKEN**, and will be reset, along with the final pretrial conference, to a date on or after June 1, 2020.
- All change of plea and sentencing hearings scheduled to begin on or before May 3, 2020, are continued generally and will be reset by the presiding judge to a date on or after May 4, 2020. If an earlier hearing is justified for any reason, the defendant and/or counsel may file a motion requesting an emergency hearing stating (1) the reason(s) why an emergency setting is necessary; and (2) whether the defendant, after consultation with counsel, consents to hold the hearing by video teleconference or telephone. Counsel also shall notify the courtroom deputy clerk by phone that an emergency motion has been filed.
- Any time period of the continuances implemented by this Administrative Order or other Orders of the Court will be excluded under the Speedy Trial

Act, as the Court specifically finds that the ends of justice—in terms of the nationally recognized public health dangers and constitutional aspects of summoning a jury—served by the continuances outweigh the best interests of the public and any defendant’s right to a speedy trial pursuant to 18 U.S.C. §3161(h)(7)(A). All necessary Orders will be entered in each case.

- Deadlines in criminal cases, including motions, briefing, and discovery deadlines, whether set by the Court, by the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or Local Rules, are not impacted by this Order, except to the extent they are triggered by a setting or deadline that has been continued or canceled. Motions for extension of time, and all other motions in criminal cases will be entertained by the Court as usual.
- All probation and supervised release revocation hearings scheduled for on or before May 3, 2020, are **CONTINUED** and will be rescheduled by the presiding judge to a date on or after May 4, 2020, unless the defendant, defense counsel, the United States Probation Office, or the United States Attorney’s Office notifies the presiding judge that the hearing is necessary before May 4, 2020.
- “The authority to convene or discharge a grand jury is vested in the District Court.” *Korman v. United States*, 486 F.2d 926, 933 (7th Cir. 1973) (rejecting special grand jury witnesses’ challenge to district court’s extension of the term of the grand jury pursuant to 18 U.S.C. § 3331(a)) (internal citation omitted). In accordance with the Court’s finding that it is not currently possible to safely summon an adequate pool of petit jurors, the Court now finds that the same unacceptable health risks mentioned above are also present with respect to grand jurors, counsel, court staff, and witnesses meeting in the courthouse for grand jury proceedings. This danger warrants delaying the currently scheduled grand jury proceedings. Indeed, given that both the Court itself and the United States Attorney’s Office are adhering to the warnings of national, state, and local health officials for our respective employees to telework and remain at home if at all possible, adherence to those warnings on behalf of grand jurors is equally essential. All grand jury sessions in this district set between the date of this Order and April 30, 2020, are **SUSPENDED** until further Order of the Court. During the period of delay, the respective Grand Juries are not in session as the term is used in 18 U.S.C. § 3161(b).
- Court Assistance Program (“CAP”) meetings are canceled until further notice.
- The Central Violations Bureau docket in East St. Louis and Benton is continued

until further Order of the Court. Payments will continue to be processed electronically (instructions appear on each citation).

- Naturalization ceremonies will not be conducted between now and June 1, 2020. If an individual meets the criteria set forth in 8 U.S.C. § 1448(c) as qualifying for the expedited administration of the judicial oath, and if that individual is seeking a name change pursuant to 8 U.S.C. § 1448(e), the Court will arrange for naturalization of that individual by a judicial officer.
- All judges and counsel are encouraged to utilize videoconferencing and teleconferencing to the extent possible to avoid unnecessary disruption in the cases. The Court recognizes that it is impossible to cover all possible contingencies and that the situation remains fluid. This Order is therefore designed to give the presiding judicial officers flexibility to address issues as they arise while implementing necessary safeguards.
- Announcements regarding any further restrictions to Court services will be posted on the District Court's public webpage <https://www.ilsd.uscourts.gov>, and attorneys will receive updates and notices via the CM/ECF system.

IV. Bankruptcy Court Filings and Proceedings

All scheduled bankruptcy hearings, including emergency matters, will be held telephonically. The Court will provide call in information to the parties prior to the hearing. For those without access to CM/ECF, documents may be submitted by mail, or in the event of emergency, may be submitted by email to: ilsbwebmaster@ilsb.uscourts.gov. All emergency filings must include an email address and phone number where the filer may be reached.

V. Probation and Pretrial Services

The United States Probation and Pretrial Services Office will continue to investigate and supervise individuals as ordered by the Court.

VI. Expiration of this Order

The Court will closely monitor the COVID-19 outbreak and any changes to the

guidance offered by the CDC and local public health officials and make necessary adjustments in the interest of public health and administration of justice. The Court will vacate or amend this Administrative Order no later than May 3, 2020.

IT IS SO ORDERED.

Dated this 1st day of April, 2020.



NANCY J. ROSENSTENGEL
Chief U.S. District Judge