

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



**IN RE:)
COURT OPERATIONS UNDER THE EXIGENT) STANDING ORDER 13
CIRCUMSTANCES CREATED BY COVID-19) (AMENDED)**

The President of the United States has proclaimed that the worldwide pandemic Coronavirus (COVID-19) outbreak that has reached the United States constitutes a national emergency, and the Governor has declared a state of emergency for the State of North Carolina. 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 and to slow the spread of the disease. The President has issued stay-at-home guidelines, and the Governor has imposed a stay-at-home order, extended through May 8, 2020. In order to protect public health, and to reduce the size of public gatherings and avoid unnecessary travel, the United States District Court for the Middle District of North Carolina hereby issues the following amended order:

The Court remains open for official business and will continue operations to the greatest extent possible under the circumstances. All deadlines in all cases are not extended and remain in effect, unless specifically addressed in this Amended Standing Order 13 or by specific order of the assigned Judge. Many Clerks' Office staff will continue to work remotely to reduce the number of employees in the courthouses, consistent with public health advisories. All litigants are urged to utilize the court's electronic filing (CM/ECF) system wherever possible. To the extent possible, especially in civil cases, Judges may be holding hearings and conferences via video-conferencing or telephonically.

As of this Court's initial Standing Order 13 entered March 16, 2020, ALL CIVIL JURY TRIALS in the Middle District of North Carolina scheduled to begin before **June 8, 2020**, are

CONTINUED and POSTPONED pending further order of the Court or the assigned Judge. Trials will resume at the earliest time it is determined safe and appropriate to do so.

As for ALL CRIMINAL CASES (including jury trials), due to the Court's reduced ability to obtain an adequate spectrum of jurors and due to the effect of the above public health recommendations on the availability of counsel, Court staff, U.S. Marshal, interpreters, Court Security Officers, Probation Officers, and other participants to be present in the courtroom for any criminal proceeding, all cases are continued to a date on or after **June 8, 2020**, as may be established by the Judge assigned to that case or term or by the Court, and the time period between this Court's initial Standing Order 13 on March 16, 2020, and **June 8, 2020**, 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). The Court specifically finds that recommendations to prevent the spread of COVID-19 include avoiding close contact with people who are or may be infected, recognizing that those infected may be asymptomatic yet spread the disease. Criminal proceedings involve a significant amount of close contact between all parties: courtroom personnel, counsel, witnesses, the defendants, family members, interpreters, deputy marshals, probation officers, and the general public. Furthermore, minimizing spread not only to courthouse personnel but to and within detention facilities and the Bureau of Prisons should be a priority. Further continuances may be issued as necessary and appropriate.

As for sentencing hearings, Federal Rule of Criminal Procedure 32(b)(1) requires that a court impose sentence "without unnecessary delay," and as for supervised release/probation violation proceedings, Federal Rule of Criminal Procedure 32.1(b)(2) requires that a court hold a hearing "within a reasonable time." In light of the national and state emergency caused by

COVID-19, and for the reasons noted above, each assigned Judge will consider continuing sentencing or supervised release proceedings from any date prior to **June 8, 2020** (and perhaps from dates thereafter), until a date as soon thereafter as safety permits. Litigants and counsel are advised to consult the docket for the particular case as to the status of such hearings. Continuances will permit parties, participating individuals, and facilities an opportunity to take reasonable steps to address any public health concerns as related to any transportation or appearance of individual defendants. Exceptional cases that may be considered for exemption from a continuance include those where a defendant may be considered to have served or over-served sentence.

The court previously ordered the Grand Jury proceedings scheduled for March 2020 cancelled. The Grand Jury proceedings for April 2020 are likewise CANCELLED. The court finds that due to the unavailability of a Grand Jury in this district, the period from February 25, 2020, through **May 18, 2020**, shall be excluded from the thirty-day period proscribed for the filing an indictment or an information under 18 U.S.C. § 3161(b) as to each defendant arrested on such charges from February 25, 2020 through **May 18, 2020**; in excluding this time and continuing the period within which the government must file an indictment or information in these matters, the court finds that the ends of justice served by this action outweigh the best interest of the public and the defendants in a speedy trial because the court finds further that the Coronavirus has caused and will continue to cause disruptions in the administration of justice (see Standing Order 15), including the inability of the Grand Jury to meet to consider such charges “such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b)” in these cases. 18 U.S.C. 3161(h)(7)(A) and (B)(iii).

Individual Judges presiding over criminal proceedings may take such actions as may be lawful and appropriate to ensure fairness of the proceedings, the rights of the parties, and the

protection of the public. In particular, Magistrate Judges may preside over initial criminal proceedings, including those authorized to be conducted via video-conference and tele-conference, consistent with the Federal Rules of Criminal Procedure, statute, and the Constitution. Moreover, and notwithstanding the deadlines set forth herein, each Judge in his or her discretion may conduct criminal proceedings, including felony change of plea and sentencings, under the authority of the Coronavirus Aid, Relief, and Economic Security Act, H.R. 748, via video-conference or, if not reasonably available, tele-conference upon the consent of the defendant after consultation with counsel.

Effective immediately, all Court naturalization ceremonies in the Middle District of North Carolina scheduled to begin before **June 8, 2020**, are CONTINUED and POSTPONED, pending further order of the Court.

SO ORDERED.

This the 28th day of April, 2020.

/s/ Thomas D. Schroeder
Thomas D. Schroeder, Chief Judge
FOR THE COURT