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RICHARD W. NAGEL
CLERK OF COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
COLUMBUS

In Re:

FURTHER ORDER REGARDING :
COURT OPERATIONS UNDER THE : **GENERAL ORDER NO. 20-08**
ONGOING EXIGENT CIRCUMSTANCES :
CREATED BY COVID-19 :

GENERAL ORDER

This Court issues this General Order as an additional Order in a series of General Orders that the Court has issued in response to the exponential spread of the Coronavirus Disease 2019 (COVID-19) in the Southern District of Ohio and elsewhere. The specific purpose of this General Order is to extend the operative effect of three of those Orders—General Orders 20-02, 20-04, and 20-05—Orders that otherwise would expire, according to their terms, in early April.

The genesis for all of these Orders, including this Order, are the multiple confirmed cases of COVID-19 throughout the Southern District of Ohio generally and in each seat of Court in the Southern District of Ohio: Columbus, Cincinnati, and Dayton. The number of confirmed cases continues to grow, both here and across the country, resulting in growing hospitalizations and increasing fatalities. As recounted in previous General Orders, President Trump has invoked the National Emergencies Act, 50 U.S.C. § 1601, et seq. with respect to COVID-19, and has issued, and now extended, guidelines mandating social distancing and the discontinuance of discretionary travel. The Governor of the State of Ohio, Mike DeWine, has likewise declared a state of emergency which, among other things, limits large indoor gatherings and limits travel to essential travel within the state and its respective communities. Reflective of the ongoing nature of this pandemic, the President and the Governor have recently extended the time periods during which these limitations will remain in place, at least through the end of April.

This Court has likewise taken steps to address the concerns that COVID-19 presents, some of which are reflected in this Court's General Orders. As noted above, three of those Orders are at issue, as summarized here:

- First, in **General Order 20-02**, entered **March 12, 2020**, the Court: (a) **CONTINUED** for a period of thirty days, all civil and criminal matters scheduled for jury trial, including all associated deadlines; (b) **CONTINUED** pending further order of the Court all grand jury proceedings, except for those proceedings involving 30-day cases, or those that are necessary to the safety of the community; (c) made an Ends of Justice finding as to the continuances the Order implemented, thereby excluding the continuances thereunder from the time under the Speedy Trial Act; (d) allowed for case-by-case exceptions to the continuances; and (e) provided that the Court would continue to process civil or criminal motions that could be resolved without oral argument. The Court further stated that it would “vacate or amend” General Order 20-02 “**no later than April 13, 2020.**”
- Second, in **General Order 20-04**, entered **March 13, 2020**, the Court clarified that the jury trial continuance established in General Order 20-02 applied only to civil or criminal cases in which trial was set to occur during the time that General Order 20-02 remained in effect, meaning that any trials set at a date after that Order was to expire, and any attendant deadlines relating to such cases, remained in force.
- Finally, in **General Order 20-05**, entered **March 20, 2020**, the Court ordered that: (a) the courthouses in the Southern District of Ohio would be closed to the public for a fourteen-day period with the exceptions set forth in the order; (b) criminal sentencings would continue, but only as to those defendants who are in custody, and in connection with such sentencing hearings, the press and family members can attend; (c) all civil and criminal hearings and trial dates scheduled during the fourteen-day public-closure period would be continued pending further order of the Court, except that individual judges would have discretion to conduct such hearings by video conference or telephone conference as appropriate; (d) any continuances in criminal matters resulting from the Order would not count toward the time periods set forth in the Speedy Trial Act; (e) all initial appearances, detention hearings, and arraignments will be conducted by video teleconferencing pursuant to the terms set forth therein; (f) Grand Jury proceedings are subject to the continuance except for 30-day cases or those subject to statute of limitations concerns; (g) individual judges can continue to conduct “emergency matters” in person; (h) the Order does not impact motions that can be resolved without an in-court appearance; and (i) Probation and Pretrial offices are closed to the public, although they will continue to conduct business. This General Order further provided that the Court would “amend or vacate” the order “**no later than April 6, 2020.**”

Since the time the Court issued those three General Orders, concerns surrounding the COVID-19 pandemic have continued to increase, both in Ohio, and across the country. Mindful of the impact that travel limitations and limitations on public gatherings may have on the ability

for parties to prepare and present their cases, the potential public health risks associated with jury trials and in-court hearings in the face of an easily-transmissible respiratory virus, and the health concerns resulting from moving detainees in and out of confinement to attend court hearings at this time, the Court has determined that it is appropriate to extend the period of operation for the provisions in the three General Orders set forth above for an additional period of time, **up through and including June 1, 2020.**

Accordingly, the Court hereby **ORDERS** the following:

- (1) Any civil or criminal matters scheduled for trial, whether jury trial or non-jury trial, before any district or magistrate judge in the Southern District of Ohio **between now and June 1, 2020**, including any associated deadlines, are hereby **CONTINUED** for sixty (60) days, pending further Order of this Court.
- (2) Any civil or criminal matters scheduled for trial, whether jury trial or non-jury trial, before any district or magistrate judge in the Southern District of Ohio **after June 1, 2020**, along with any attendant deadlines, shall not be affected by this Order.
- (3) All in-person criminal and civil hearings, such as, for example, a hearing on a motion for summary judgment or on a motion to suppress, that are scheduled to occur between now and June 1, 2020, are hereby **CONTINUED** pending further order of the Court, except as set forth below. The Court may proceed with video and teleconference technology as appropriate at the discretion of individual judges. The Court recognizes that this continuance may require amendments to the scheduling orders in individual cases, which should be addressed on a case-by-case basis.

- (4) As set forth in General Order 20-05, and consistent with General Order 20-07, all initial appearances, detention hearings, and arraignments will be conducted via video and teleconference technology in the manner set forth in General Order 20-05.
- (5) All felony plea or change of plea hearings and sentencing hearings for defendants who are not in custody are hereby **CONTINUED** through June 1, 2020.
- (6) The Court will continue to hold felony plea or change of plea and sentencing hearings for those defendants who are in custody between now and June 1, 2020, but only to the extent that such hearings can be conducted by video and teleconference technology. Accordingly, such hearings can occur only pursuant to the provisions set forth in General Order 20-07, which requires (a) a finding by the district judge in the case at issue that the felony plea or sentencing hearing in that case cannot be further delayed without serious harm to the interests of justice, and (b) the consent of the defendant in that matter. Absent those two conditions, felony plea, change of plea, or sentencing hearings are **CONTINUED** until June 1, 2020, except that a district judge retains the discretion, in a particular case, to determine that appropriate grounds exist for an in-person felony plea, change of plea, or sentencing hearing to go forward. In the event that a district judge elects to move forward in a given case in that manner, the judge will take all appropriate steps to reduce the risk of exposure to COVID-19 for the participants in that hearing.
- (7) All grand jury proceedings in the District are **CONTINUED** through June 1, 2020, except that the current Columbus grand jury may meet as scheduled during

the week of April 6, 2020, and the United States Attorney may petition the Chief Judge, under emergency circumstances, to call the existing grand jury in for deliberations.

- (8) As to any continuance in any criminal matter resulting from the provisions of this General Order, due to the Court's reduced ability to obtain an adequate spectrum of jurors, as well as the public health considerations arising from in-person court hearings for the parties, their counsel, and Court staff and personnel in attendance at the courthouse, the time period of such continuance shall be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuance 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).
- (9) The district judge or magistrate judge in a particular matter may order case-by-case exceptions to the continuances provided herein at their discretion after consultation with counsel.
- (10) This **ORDER** does not affect the Court's consideration of civil or criminal motions that can be resolved without oral argument.
- (11) The Joseph P. Kinneary Courthouse (Columbus), the Potter Stewart Courthouse (Cincinnati), and the Walter H. Rice Courthouse (Dayton), shall remain **CLOSED** to the public according to the terms and conditions set forth in General Order 20-05 through June 1, 2020. That being said, staff in the Clerk's Office will be available by telephone, mail will be received, and new filings will be processed. While the Court's intake window will be closed, those wishing to make in-person filings, such as pro se parties, may do so through the use of drop

boxes that are positioned at or near the entrances to the aforementioned courthouses. The CM/ECF system will remain open and operational and attorneys are encouraged to file electronically through that system.

(12) All Probation and Pretrial offices will be closed to the public through June 1, 2020, but will continue to conduct business during that time. Drug testing will continue as directed by the Probation and Pretrial offices. A Probation or Pretrial Services Duty Officer will be available at each seat of court to answer questions telephonically.

(13) To the extent that a party has a scheduled appointment at the courthouse, or is otherwise required to appear, but is denied entry, that person should proceed as follows:

- If represented by an attorney, the party should contact his or her attorney.
- If an attorney or pro se litigant, who is scheduled to appear in court before a judge, please contact that judge's chambers or courtroom deputy (see www.ohsd.uscourts.gov).
- For all other matters or questions, please contact the Clerk's Office at (614) 719-3000 (Columbus), (513) 564-7500 (Cincinnati), or (937) 512-1400 (Dayton).

The Court will amend or vacate this General Order no later than June 1, 2020.

IT IS SO ORDERED.

DATED: April 3, 2020



ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE