

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

FILED
RICHARD W. NAGEL
CLERK OF COURT

2021 MAR -3 PM 4: 27

In Re:

**FURTHER ORDER REGARDING COURT :
OPERATIONS UNDER THE ONGOING :
EXIGENT CIRCUMSTANCES :
CREATED BY COVID-19 :**

GENERAL ORDER NO. 21-07

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

The Court issues this General Order as one of a series of General Orders that it has adopted in response to the ongoing COVID-19 pandemic. The Court has adopted each of these General Orders in the interests of public health, and in accordance with current determinations by the Ohio Department of Health and the Governor of the State of Ohio, guidelines issued by the Centers for Disease Control and Prevention (CDC), guidelines from the Administrative Office of the United States Courts (AO) (i.e., the Federal Judiciary COVID-19 Recovery Guidelines and the COVID-19 Judicial Task Force Jury Subgroup Report), and the recommendations the Court has received from an Ad Hoc Committee on Gating Criteria the Court formed to evaluate appropriate measures to be taken to prevent the further spread of COVID-19 in Ohio.

In General Order 20-17, the Court adopted a Reconstitution Plan for reopening the courthouses in this District as of June 1, 2020. That Reconstitution Plan was attached to and incorporated in General Order 20-17. But, based on sustained high levels of COVID-19 infections in the District and across the country throughout the remainder of 2020, the Court has amended and updated that Reconstitution Plan through subsequent General Orders. The most recent such General Order was General Order 20-36, issued November 25, 2020, which subsequently: (1) was extended by General Order 20-38 (to January 31, 2021); (2) was amended as to grand jury

proceedings by General Order 21-02; and (3) was further extended in its as-amended form by General Order 21-04 (to February 28, 2021).

Since the time the Court issued General Order 20-36, and even since the time the Court issued General Order 21-04, case counts, hospitalizations, and mortality figures associated with COVID-19 have decreased substantially across Ohio, in the Southern District, and in each seat of Court in this District. Moreover, Ohio is moving forward rapidly to vaccinate its population against COVID-19, most recently reporting an average of 60,000 vaccinations per day. While the COVID-19 pandemic remains a significant concern, new information such as that set forth above caused the Ad Hoc Committee on Gating Criteria to issue new recommendations, which the Court has since adopted. As a result, effective immediately, and continuing through March 31, 2021, the Reconstitution Plan is amended as set forth herein:

1. **Jury Trials:** The Court will allow the resumption of civil and criminal jury trials, but only subject to the terms and conditions set forth in this General Order.
 - a. **Civil Jury Trials:** During the pendency of this Order, any civil matter set for jury trial shall move forward with such trial only if: (1) at least one of the parties in the matter represents to the Court that the interests of justice require the jury trial to go forward as scheduled and that any further continuance in the matter would represent a hardship to the party; and (2) the Court likewise determines that, in the interests of justice, it is absolutely necessary that the matter go forward as scheduled. Any civil jury trial set to occur during the pendency of this Order, as to which both of the above conditions are not met, will be continued to a future date to be set by the assigned judge.

- b. **Criminal Jury Trials:** During the pendency of this Order, in any criminal matter in which the defendant is in custody (or, in any multi-defendant matter, if any one or more of the defendants who will be tried at the same jury trial are in custody), the jury trial shall be scheduled and move forward in the ordinary course unless the defendant (or, in cases involving multiple defendants who will be tried together, all defendants who are in pretrial detention) requests a continuance. In any criminal matter in which no defendant is in custody, any trial in the matter that is or would be scheduled during the pendency of this Order shall be continued to a later date unless the defendant requests that the trial go forward, in which case a jury trial shall be scheduled in the ordinary course. As to any criminal jury trial that is continued under this paragraph, the judicial officer shall include in the Order re-setting the date for the continued trial the requisite findings under the Speedy Trial Act.
- c. **Courtroom with plexiglass shielding:** Any jury trial that occurs during the pendency of this General Order shall take place only in a courtroom that has been outfitted with plexiglass shielding.
2. **Naturalization ceremonies,** whether scheduled to occur in the courthouse or at off-site locations, are suspended through March 31, 2021. The Court takes this step to comply with the November 15, 2020, Order of Ohio Interim Director of Public Health, Lance D. Himes, limiting gatherings of greater than ten people.
3. **Grand Jury proceedings** are authorized to commence effective immediately, but only to the extent that the United States Attorney for the Southern District of Ohio deems it necessary for the grand jury to meet. In determining whether to move forward with grand

jury proceedings on particular dates, or as to particular matters, the United States Attorney shall weigh heavily the need to reduce courthouse traffic in the interest of public health.

4. **In-court proceedings** other than those referenced above (e.g., bench trials, suppression hearings, oral arguments on motions, temporary restraining orders, preliminary injunction proceedings, etc.) that are scheduled to occur after February 28, 2021, but during the pendency of this General Order, shall occur in person only upon a determination by the assigned judge that the interests of justice require that the proceedings be conducted in that manner. In exercising their discretion in setting such proceedings, judges will weigh heavily the need to reduce courthouse traffic in the interest of public health. To the extent that a judicial officer concludes that a given in-person proceeding must go forward, the proceeding shall take place in a courtroom that has been outfitted with plexiglass shielding.
5. This General Order does not prevent any proceedings from occurring through use of video- or audio-conferencing capabilities insofar as the same are permitted by law. The fact that, absent a sealing order by the presiding judge, these will be public proceedings, does not authorize their broadcasting by anyone. S. D. Ohio Civ. R. 83.2 applies to these proceedings.

This General Order does not change any of the preventive measures specified in the Reconstitution Plan including, without limitation:

- a. Screening all visitors to the courthouses for indications of COVID-19 infection;
- b. Requiring all Court personnel and visitors to wear face masks in specified locations in the courthouses;
- c. Requiring all persons in the courthouses to maintain a physical distance of at least six feet from other persons (“social distancing”); and

- d. Responding to any reported COVID-19 infection in one of the courthouses according to the detailed protocol provided in the Reconstitution Plan.

IT IS SO ORDERED.

DATED: March 3, 2021



ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE