

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

07/10/2020

JULIA C. DUDLEY, CLERK
BY: A. Seagle
DEPUTY CLERK

IN THE MATTER OF:

**COURT OPERATIONS UNDER THE
EXIGENT CIRCUMSTANCES CREATED
BY COVID-19: POSTPONEMENT OF
RESUMPTION OF CRIMINAL TRIALS
UNTIL AUGUST 31, 2020**

**Amended
Standing Order Nos. 2020-10 and
2020-14**

This Standing Order supplements all prior Standing Orders concerning the COVID-19 pandemic and amends Standing Orders 2020-10 and 2020-14 as follows:

1. The court continues to closely monitor the outbreak of the novel coronavirus, known as COVID-19 and has consulted with public health and other officials.
2. Since June 15, 2020, the number of COVID-19 cases in the Virginia Department of Health Southwest Region has spiked, from 45 confirmed cases on June 15 to 109 confirmed cases on June 24, 2020. See <https://www.vdh.virginia.gov/coronavirus/covid-19-daily-dashboard/>. (Last visited July 10, 2020).
3. This trend in southwest Virginia tracks what is happening nationally. Data collected by the Centers for Disease Control and Prevention show a sharp increase of cases after June 15, 2020. 18,577 new cases were reported on June 15, 2020. By July 8, 2020, the number of new cases climbed to 64,771. See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>. (Last visited July 10, 2020).
4. The court has consulted with the Federal Public Defender, the United States Attorney, and the Criminal Justice Act Panel District Representative about this resurgence of COVID-19 cases. Because of the resiliency of the pandemic, and with the concurrence of the Federal Public Defender and the Criminal Justice Act Panel District Representative, the court has determined

to postpone the resumption of criminal jury trials in this district until August 31, 2020.

5. As a result of this recent increase in COVID-19 cases in this district and nationally, the court has determined to amend § II. 3. of the Standing Order No. 2020-14 to postpone resumption of criminal jury trials until August 31, 2020. This is the same date presently set for resumption of civil jury trials. Whether those dates will remain firm will depend on the progress of the containment of the virus over the next two months.

6. Section II. 3. of Standing Order 2020-14 is amended to read as follows:

3. Criminal jury trials may resume on Monday, August 31, 2020.

As of August 31, 2020, it will be left to the discretion of the presiding judge whether a criminal jury trial will proceed based on the circumstances of each Division. Any continuance as a result of the disruption created by the COVID-19 pandemic to a criminal jury trial shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), as described in Standing Order No. 2020-10. For any continued case, the court will enter an order to incorporate the findings made in Standing Order No. 2020-10, or further findings, in the record of each case. A presiding judge may conduct a criminal jury trial prior to August 31, 2020 in a specific case based on the requirements of that case and the public health circumstances present in that Division of court.

7. The court finds that the public health and justice concerns weighing against holding jury trials in criminal cases as reflected in Standing Order 2020-10, concerning the Speedy Trial Act, remain true today given the recent spike in COVID-19 cases in this district. **As such, Standing Order 2020-10 is amended to extend to August 31, 2020 so as to exclude the period prior to August 31, 2020 from Speedy Trial Act calculations.** The court finds that the postponement of the resumption of criminal jury trials to August 31, 2020 is necessary to safely resume trials in a manner that guarantees every defendant a fair trial in the midst of a pandemic involving a deadly and easily transmitted disease. It is essential that the resumption of criminal jury trials provides the accused with the full measure of trial rights, to include not only a right to a public trial, but one where the jury represents a fair cross-section of the community and will

not be distracted during the evidence or rush to judgment during deliberations based on fear of exposure to COVID-19. “Jurors must be given reasonable assurance of their safety before participating in the jury process. They must be comfortable during the course of a trial, and be able to focus on the evidence and not the risk of a COVID-19 infection.” Report of the Jury Subgroup, COVID-19 Judicial Task Force, Conducting Jury Trials and Convening Grand Juries During the Pandemic.¹

8. By extending Standing Order 2020-10 through August 31, 2020, the court excludes the time period prior to August 31, 2020 from the Speedy Trial Act calculation pursuant to 18 U.S.C. § 3161(h)(7)(A). The court finds that the ends of justice served by taking such action during this public health crisis outweigh the best interest of the public and the defendant in a speedy trial. In that regard, the court finds that the exclusion of the period through August 31, 2020 from the Speedy Trial Act calculation period is necessary to balance the health and safety of jurors and prospective jurors, court staff, defendants, counsel, witnesses, and the public with the constitutional obligation to continue federal court operations during the COVID-19 pandemic.

The court will continue to monitor the COVID-19 public health emergency and will amend this and prior Standing Orders as required by the changing circumstances posed by the pandemic.

Enter: July 10, 2020



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Michael F. Urbanski
Chief United States District Judge

¹ Available at: https://www.uscourts.gov/sites/default/files/combined_jury_trial_post_covid_doc_6.10.20.pdf.