

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

February 18, 2021

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

IN THE MATTER OF:

POSTPONEMENT OF JURY  
TRIALS UNTIL APRIL 1, 2021

Standing Order 2021-4

This Standing Order supplements all prior COVID-19 pandemic Standing Orders.

1. On December 3, 2020, the court postponed all jury trials until March 1, 2021, due to the COVID-19 pandemic. In the two months following the court's December 3, 2020 order, the public health crisis has substantially deepened.

2. As of February 17, 2021, the Virginia Department of Health reported a total of 555,592 cases, 23,179 hospitalizations, and 7,075 deaths. The historic number of cases is now more than twice what it was on December 1, 2020, and hospitalizations and deaths have increased by more than one-third. Vaccinations began in December 2020, and over the past few weeks, the statistical tide has begun to turn. See <https://www.vdh.virginia.gov/coronavirus/covid-19-daily-dashboard/>. (Last visited February 17, 2021).

3. The trend in Virginia cases tracks what is happening nationally. Data collected by the Centers for Disease Control and Prevention ("CDC") show a sharp increase of cases in November, December, and January. However, the CDC reports that 34,732,963 persons have received one or more doses of vaccine, and the national seven-day average of cases, hospitalizations and deaths has trended downwards the past few weeks. See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>. (Last visited February 17, 2021).

4. The judges of the Western District of Virginia met by videoconference recently to reassess

the situation. While there is some reason to be optimistic given the rollout of vaccinations and the decreasing numbers of cases, hospitalizations and deaths, the court concludes that routinely convening in-person jury trials during March 2021 does not serve the interests of justice or public health. With the concurrence of the Federal Public Defender, United States Attorney and the Criminal Justice Act Panel District Representative, the court has determined to postpone the routine resumption of in-person civil and criminal jury trials in this district until April 1, 2021.

5. Videoconference hearings during the pandemic have proven successful, and the court will continue to hold videoconference proceedings as often as possible. In addition, the court is taking steps to begin to conduct jury trials in civil cases in an all-virtual format, with jurors, counsel and witnesses appearing entirely by videoconference. Because of constitutional concerns, an all-virtual jury trial cannot be conducted in criminal cases.

6. Although this standing order postpones the routine holding of in-person civil and criminal jury trials until April 1, 2021, a presiding judge may conduct an in-person jury trial should the exigencies of a particular case and the interests of justice so require.

7. The court finds that the public health and justice concerns weighing against holding jury trials in criminal cases as reflected in Standing Orders 2020-10 and 2020-14, as amended, concerning the Speedy Trial Act, remain true today given the sharp spike in COVID-19 cases, hospitalizations, and deaths in Virginia over the past few months. The court finds that the postponement of the resumption of criminal jury trials to April 1, 2021, 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.<sup>1</sup> In addition, because of restrictions posed by the pandemic, the court is concerned about resuming criminal trials under circumstances in which a criminal defendant’s access to counsel and means of investigation are limited.

8. **Because of the public health crisis posed by the pandemic, the court, in all pending criminal cases, excludes the time period prior to April 1, 2021, 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 prior to April 1, 2021, 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.

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

Enter: February 18, 2021



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Chief U.S. District Judge  
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Michael F. Urbanski  
Chief United States District Judge

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<sup>1</sup> Available at: [https://www.uscourts.gov/sites/default/files/combined\\_jury\\_trial\\_post\\_covid\\_doc\\_6.10.20.pdf](https://www.uscourts.gov/sites/default/files/combined_jury_trial_post_covid_doc_6.10.20.pdf).