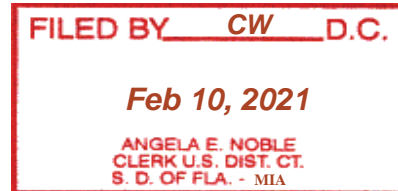


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2021-12



IN RE: CORONAVIRUS PUBLIC EMERGENCY

EIGHTH ORDER CONCERNING JURY TRIALS AND OTHER PROCEEDINGS

This Order is issued in conjunction with Administrative Orders 2020-76, 2020-53, 2020-41, 2020-33, 2020-24, 2020-21 and 2020-18 which limited in-court appearances and continued all jury matters.

THEREFORE, the United States District Court for the Southern District of Florida hereby issues the following order:

1. All persons entering any federal courthouse facility within the Southern District of Florida **must** wear a face mask at all times unless otherwise directed by the Court. Face masks may not contain exhalation valves or vents. The only exceptions to the face mask requirement are for a medical condition that precludes an individual from wearing a face mask and children under two (2) years of age.
2. All persons entering any federal courthouse facility within the Southern District of Florida **must** maintain a social distance of at least 6' apart unless they are members of the same household.
3. All persons entering any federal courthouse facility within the Southern District of Florida may be subject to screening.
4. All persons using the elevators in any federal courthouse facility within the Southern District of Florida shall abide by social distancing signage posted at the elevator entrance unless the individuals in the elevator are members of the same household.

5. The United States Courthouses in Miami, Fort Lauderdale, West Palm Beach, Fort Pierce, and Key West, including Bankruptcy Court and Probation, will remain open for business, with reduced staffing, to a level to maintain essential operations, consistent with Administrative Order 2020-20 and subject to the following limitations.

6. All jury trials in the Southern District of Florida scheduled to begin on or after March 30, 2020, are continued until May 3, 2021. The Court may issue other Orders concerning future continuances as necessary and appropriate.

7. All trial-specific deadlines in criminal cases scheduled to begin before May 3, 2021, are continued pending further Order of the Court. Individual judges may continue trial-specific deadlines in civil cases in the exercise of their discretion.

8. Individual judges presiding over criminal proceedings may take such actions consistent with this Order as may be lawful and appropriate to ensure the fairness of the proceedings and preserve the rights of the parties.

9. The Court is cognizant of the right of criminal defendants to a speedy and public trial under the Sixth Amendment, and the particular application of that right in cases involving defendants who are detained pending trial. Any motion by a criminal defendant seeking an exception to this Order in order to exercise that right should be directed to the District Judge assigned to the matter in the first instance; provided, however, that no such exception may be ordered without the approval of the Chief Judge after consultation with the Court.

10. The time period of any continuance entered as a result of this Order shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), as the Court finds that the ends of justice served by taking that action outweigh the interests of the parties and the public in a speedy trial. Absent further Order of the Court or any individual judge, the period of exclusion shall be from March 30, 2020, to May 3, 2021. The Court may extend the period

of exclusion as circumstances may warrant. This Order and period of exclusion are incorporated by reference as a specific finding pursuant to 18 U.S.C. § 3161(h)(7)(A) in the record of each pending case where the Speedy Trial Act applies. *See Zedner v. United States*, 547 U.S. 489, 506–07 (2006). The period of exclusion in this Court’s prior Administrative Orders on this subject (2020-76, 2020-53, 2020-41, 2020-33, 2020-24, 2020-21 and 2020-18) are likewise incorporated by reference as a specific finding pursuant to 18 U.S.C. § 3161(h)(7)(A) in the record of each pending case where the Speedy Trial Act applies.

11. Individual judges may continue to hold hearings, conferences, and bench trials in the exercise of their discretion, consistent with this Order.

12. Judges are strongly encouraged to conduct court proceedings by telephone or video conferencing where practicable.

13. Criminal matters before Magistrate Judges, such as initial appearances, arraignments, detention hearings, and the issuance of search warrants, shall continue to take place in the ordinary course.

14. Grand jury sessions in the Southern District of Florida resumed on November 16, 2020, with no more than two grand jury sessions per week. The U.S. Attorney’s Office and Clerk of Court will continue to safely convene no more than two grand jury sessions per week until further Order. The Court may issue other Orders concerning future continuances, or additional grand jury sessions, as necessary and appropriate.

15. This Court’s most recent Administrative Order on the Coronavirus pandemic (2020-76) states that, although the Speedy Trial Act requires an information or indictment charging an individual with the commission of an offense to be filed within thirty (30) days from the date on which such individual was arrested or served with a summons in connection with

such charges, the period from March 26, 2020, until May 3, 2021, is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B)(iii). The Court is cognizant of the right of criminal defendants to a speedy and public trial under the Sixth Amendment, and the particular application of that right in cases involving defendants who are detained pending trial. Nonetheless, this Court found that the ends of justice served by excluding this time outweighed the interests of the parties and the public in a speedy trial because the absence of grand jury sessions made it unreasonable to expect the return and filing of an indictment within the period set forth in 18 U.S.C. § 3161(b). Likewise, the Court finds that the ends of justice are served by extending again this period of exclusion, and outweigh the interests of the parties and the public in a speedy trial. As stated above, this Court has authorized the resumption of only two grand jury sessions per week; ordinarily, according to the U.S. Attorney's Office, there are eleven. Additionally, according to the U.S. Attorney's Office, it must present approximately 150 matters to a grand jury for indictment, plus new arrests. Given the limited availability of grand jury resources and continued exigent circumstances created by the pandemic, the Court finds that it remains generally unreasonable to expect the return and filing of an indictment within the period set forth in 18 U.S.C. § 3161(b), and an additional period of exclusion will promote the safe and orderly administration of justice. The additional period of exclusion shall be for the period from March 15, 2021, until May 3, 2021. The Court may shorten or extend the period of exclusion as circumstances warrant. Any individual judge may enter an Order modifying this additional period of exclusion for any particular case, including upon motion by any party. This Order and period of exclusion are incorporated by reference as a specific finding pursuant to 18 U.S.C. § 3161(h)(7)(A) in the record of each pending case where the Speedy Trial Act applies. *See Zedner*, 547 U.S. at 506–07.

16. All judicial naturalization ceremonies in the Southern District of Florida will be held remotely or by video conference.

17. The Clerk's Office, Probation, the Bankruptcy Court, and all other Court services shall remain open with reduced staffing, at a level to maintain essential operations, consistent with Administrative Order 2020-20.

This Order shall remain in effect until further Order of the Court.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 10th day of February, 2021.



K. MICHAEL MOORE
CHIEF UNITED STATES DISTRICT JUDGE

c: Honorable William H. Pryor, Jr., Chief Judge, Eleventh Circuit
All Southern District Judges, Bankruptcy and Magistrate Judges
James Gerstenlauer, Circuit Executive, Eleventh Circuit
Ariana Fajardo Orshan, United States Attorney
Gadyaces Serralta, United States Marshal
Michael Caruso, Federal Public Defender
Angela E. Noble, Court Administrator • Clerk of Court
Joe Falzone, Clerk, Bankruptcy Court
Consuelo Irimia, Chief Probation Officer
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