

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISIONS OF ST. CROIX and ST. THOMAS/ST. JOHN**

IN RE:)	
)	General Order
)	
DISTRICT COURT OPERATIONS)	
DURING THE COVID-19)	Miscellaneous No. 2020-0001
OUTBREAK)	
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**ELEVENTH ORDER CONCERNING OPERATIONS OF
THE DISTRICT COURT OF THE VIRGIN ISLANDS
DURING THE COVID-19 OUTBREAK**

WHEREAS, in response to the spread of the coronavirus disease (“COVID-19”), a national emergency, under the National Emergencies Act (50 U.S.C. §§ 1601 *et seq.*), and a public health emergency were declared by the President of the United States and the Secretary of the United States Department of Health and Human Services, respectively; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) and other public health authorities have advised public and private agencies to take necessary and appropriate precautions to reduce exposure to COVID-19 and slow the spread of the disease; and

WHEREAS, federal, state and local governments as well as other public and private entities throughout the United States have taken, and continue to take, various precautionary and preventive measures to address the significant public health concerns created by COVID-19; and

WHEREAS, in response to the spread of COVID-19, the Governor of the Virgin Islands declared a State of Emergency on March 13, 2020, which was most recently extended through October 9, 2020; and

WHEREAS, in Executive Orders and Supplements thereto issued from March 13, 2020 through September 15, 2020, the Governor of the Virgin Islands directed and urged various precautionary and preventive actions, designed to respond to, mitigate, and avoid the further spread

of COVID-19, while at the same time altering the nature and level of restrictions imposed based on an assessment of the circumstances presented by the COVID-19 pandemic; and

WHEREAS, according to the Virgin Islands Department of Health COVID-19 reports, from March 13, 2020 through June 30, 2020, there were 90 persons in the Virgin Islands who tested positive for COVID-19, including 6 persons who died of the disease. The number of positive tests rose to 421 by the end of July, including 8 deaths; then skyrocketed to 1139 by the end of August, including 15 deaths; and increased to 1318 as of September 29, 2020, including 20 deaths;

WHEREAS, in exercising his powers and duties to direct and aid the response to the COVID-19 pandemic in the Virgin Islands, the Governor of the Virgin Islands issued Orders progressing from a “Stay-At- Home Order effective March 25, 2020, to a “Safer-At-Home” Order effective May 4, 2020, to an “Open Doors Phase” effective June 1, 2020, followed by a retreat to the “Stay-At-Home Phase” effective August 17, 2020 after a sharp spike in positive COVID-19 cases in the Virgin Islands, and a return to the current “Safer-At-Home Phase” effective September 8, 2020; and

WHEREAS, the Virgin Islands Department of Education has announced that from September 8, 2020 to January 20, 2021, instruction to public school students will be conducted virtually; and

WHEREAS, in light of the serious public health concerns that COVID-19 presented, the District Court of the Virgin Islands entered General Orders concerning the operations of the Court on March 17, 2020, March 20, 2020, April 9, 2020, April 16, 2020, April 30, 2020, May 12, 2020, June 12, 2020, July 8, 2020, July 14, 2020, and August 31, 2020, designed to allow the Court to continue to effectively perform its mission of fairly and impartially administering justice, while at the same time doing so in a manner consistent with the adoption of precautionary and preventive measures aimed at reducing exposure to COVID-19 and slowing the spread of the disease; and

WHEREAS, during the periods covered by the aforementioned General Orders, the precautionary and preventive measures included, *inter alia*, the continuance of all civil and criminal bench and jury trials, except any that could be conducted remotely; the limitation of in-person court proceedings to those required by law and not amenable to continuance; and the conduct of videoconference and teleconference proceedings to the greatest extent practicable and permitted by law; and

WHEREAS, with regard to jury trials, jury selection in the District of the Virgin Islands frequently involves large jury venire pools, which often consist of individuals in—or caring for those in—the age categories identified by the CDC as being especially at risk; individuals who are otherwise at enhanced health risks for other recognized reasons; and parents or guardians of school age children, thus increasing the likelihood of the unavailability of a significant number of potential jurors and the challenges of convening a representative jury venire; and

WHEREAS, the number of persons who tested positive for COVID-19 in the Virgin Islands for the month of September and the corresponding positivity rate reflect a significant decrease from the month of August, thus causing the Court to believe that, with the implementation of appropriate protocols, a carefully monitored lifting of certain restrictions in the Court's operations as a first step toward resumption of full operations is warranted; and

WHEREAS, notwithstanding reason for cautious optimism in light of the September COVID-19 reports, the continuing danger and threat to public health and safety that COVID-19 poses, together with the unpredictability and uncertainty of its impact in the Territory at any given time, counsels in favor of a flexible, step by step approach to the resumption of full Court operations at the Almeric L. Christian Federal Building and Courthouse on St. Croix and the Ron de Lugo Federal Building and Courthouse on St. Thomas that embodies the lifting of certain restrictions; the continued implementation of precautionary and preventive measures previously

imposed; the continued monitoring of the COVID-19 climate in the Virgin Islands; the continued development, dissemination and implementation of protocols; the necessary coordination among the entities and parties involved in the justice system; and the flexibility to adjust the Court's operations in light of the COVID-19 situation in the Territory, the capacity of the Court, and the needs of particular matters before the Court; and

WHEREAS, in view of the foregoing, the District Court deems it appropriate to implement a "soft reopening" of Court operations;

NOW, THEREFORE, in order to continue to promote public health and safety, and the health and safety of Court personnel and those with whom they interact in conducting the business of the Court, counsel, litigants, other case participants, jurors, persons with other business at the courthouse, and the general public, and consistent with the accomplishment of the Court's mission, it is hereby **ORDERED** as follows:

1. The District Court of the Virgin Islands will remain open for official business in both the St. Croix and the St. Thomas/St. John Divisions of the Court, subject to the conditions set forth in this Order.

2. All civil and criminal jury trials scheduled before any judge or magistrate judge in either Division of the Court, from October 1, 2020 through October 31, 2020, are **CONTINUED** pending further Order of the Court. The Court may issue further Orders concerning future general continuances of any matters as may be deemed necessary and appropriate. All trials impacted by this Order will be reset by further Order of the assigned judicial officer.

3. All deadlines set by Federal or Local Rules or Court Orders, including, but not limited to, scheduling orders in all civil and criminal cases, remain in effect unless modified by further General Order of the Court or by Order of the assigned judicial officer.

4. The “soft reopening” of District Court operations shall consist of the following, effective October 1, 2020:

- a. Grand jury proceedings may resume, provided that quorums can be established;
- b. In-person court proceedings may be conducted for any matters that do not involve large numbers of persons in the courtroom, with proceedings that qualify for this exception to the limitation on in-person proceedings to be determined in the sole discretion of the presiding judge;
- c. Central Violations Bureau proceedings may be conducted;
- d. Clerk’s Office counter services will resume, except that payments in cash will not be accepted. Payments may be made by personal check, credit and debit cards, money order, or certified bank check, except that criminal debts cannot be paid by personal check or credit and debit cards.

5. Except as otherwise stated herein or consistent with the “soft reopening” provisions set forth above, the Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on March 17, 2020, the Second Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on March 20, 2020, the Fourth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on April 16, 2020, the Sixth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on May 12, 2020, the Seventh Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on June 12, 2020, the Ninth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on July 14, 2020, and the Tenth Order Concerning Operations of the District Court of the Virgin Islands During the

COVID-19 Outbreak entered on August 31, 2020, which are set to expire on October 1, 2020, shall be extended and continue in full force and effect through October 31, 2020.

6. With regard to criminal matters, the time period of October 1, 2020 through October 31, 2020 shall be “excluded time” under the Speedy Trial Act for purposes of determining when an information or indictment must be filed or when a trial must commence pursuant to 18 U.S.C. § 3161(h)(7)(A), because the Court specifically finds that the ends of justice served by taking such action materially outweigh the best interests of the public and any defendant in a speedy trial and speedy indictment in view of the serious public health impact of COVID-19 discussed above. Such exclusion is necessary as to any cases scheduled for trial during the October 1, 2020 through October 31, 2020 period in order to assure that there is a full, unhindered, continuously serving jury venire and seated jury in every case, which is central to the sound administration of justice. Such exclusion of time is also necessary in cases that are set for trial outside of the October 1, 2020 through October 31, 2020 time period, as well as cases that are not yet set for trial, in order to address the reasonably anticipated difficulties in defense counsel communicating or visiting with clients; the difficulties that the parties are likely to face in undertaking all of the tasks necessary to fully prepare for trial; and the inherent delay in the scheduling of further trials as a consequence of the exclusion period herein. Further, such exclusion of time is necessary in the grand jury context, notwithstanding permission to resume grand jury proceedings, due to the uncertainty surrounding the ability of the grand juries to form a quorum. The Court may by further Order extend the period of exclusion as circumstances warrant, and the assigned judicial officer may by Order also do so as to any specific proceeding.

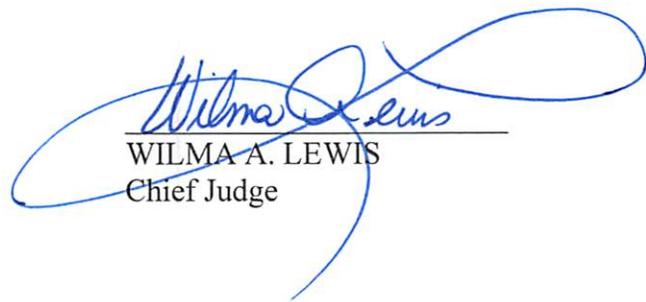
7. For any federal inmate released from imprisonment during the period October 1, 2020 through October 31, 2020, the Standard Condition of Release which requires such inmates to submit to one drug test within 15 days of release is waived.

8. By its terms, the Eighth Order Concerning Operations of the District Court of the Virgin Islands concerning Videoconferences and Teleconferences for Criminal Proceedings, entered on July 8, 2020, shall remain in effect for 90 days from the date of that Order, unless terminated earlier or extended.

9. This Order shall remain in effect for the period October 1, 2020 through October 31, 2020 unless it, or any portion thereof, is modified or terminated earlier or extended by further Order of the Court.

SO ORDERED.

Date: September 30, 2020



WILMA A. LEWIS
Chief Judge