

**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)
_____)

**FOURTEENTH 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a State of Emergency on March 13, 2020, which has been extended on multiple occasions and continues in effect until rescinded or superseded by Executive Order; and

WHEREAS, in Executive Orders, Supplements thereto, and public announcements issued from March thru November, 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, 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 presents, 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, August 31, 2020, September 30, 2020, October 6, 2020, and October 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, initially, the precautionary and preventive measures imposed by the Court 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, the first step toward the resumption of full Court operations—announced in the Court’s Eleventh Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on September 30, 2020, and implemented effective October 1, 2020—was denominated a “soft reopening” of operations, and consisted of the following:

- a. The resumption of grand jury proceedings, provided that quorums could be established;
- b. The conduct of in-person court proceedings 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 determined in the sole discretion of the presiding judge;
- c. The conduct of Central Violations Bureau proceedings;
- d. The resumption of Clerk’s Office counter services, except that payments in cash are not accepted; and

WHEREAS, in its Thirteenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on October 31, 2020, the Court—based on its continuing review of Virgin Islands Department of Health COVID-19 reports and related considerations—extended the “soft-reopening” of Court operations to include the incremental resumption of civil and criminal jury trials, effective November 1, 2020; and

WHEREAS, the Court recognizes that 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, notwithstanding the Court's decision to resume jury trials, the Court recognized that the continuing danger and threat to public health and safety that COVID-19 poses—as confirmed by the recent spike in cases in the continental United States, the unpredictability and uncertainty of the COVID-19 impact in the Territory at any given time, and the potential challenges of convening a jury venire—counseled in favor of a cautious, flexible, step-by-step approach to the resumption of jury trials and full Court operations; and

WHEREAS, the announcement by the Governor of the Virgin Islands on November 24, 2020 of a “soft two-week” shutdown—which includes mandated and recommended remote and staggered employee work schedules—and a moratorium on permits for large gatherings, with limited exceptions, until further notice, highlights the unpredictability and uncertainty of the COVID-19 impact in the Territory and the continuing need for flexibility in the Court's approach to the resumption of full operations; and

WHEREAS, the recent record-breaking surge in COVID-19 cases in the continental United States, together with the well-publicized concerns regarding the potential for further spread of the virus in the wake of travel and family gatherings during the holidays, continues to confirm that the incremental step-by-step lifting of restrictions on full Court operations must be accompanied by the continued implementation of precautionary and preventive measures previously imposed; the continued monitoring of the COVID-19 climate in the Virgin Islands and the continental United States; 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, the ability to convene a jury venire, and the needs of particular matters before the Court;

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 and the circumstances discussed herein, 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. The "soft reopening" of Court operations, as extended in the Court's Thirteenth Order to include the incremental resumption of civil and criminal jury trials, shall continue in effect through January 15, 2021. In view of the heightened uncertainty that surrounds this period with regard to the COVID-19 climate, the Court reminds all parties of the flexibility that the Court retains, as discussed above, to adjust the Court's operations. Accordingly, the conduct of any trials during this period will be determined and scheduled by further Order of the assigned judicial officer only after careful consideration of all of the COVID-related factors discussed herein. The Court may issue further General Orders concerning the incremental resumption of jury trials as may be deemed necessary and appropriate.

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. Except as otherwise stated in this General Order or consistent with the extension of the "soft reopening" of Court operations to include jury trials as set forth herein, 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, the Tenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on August 31, 2020, the Eleventh Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on September 30, 2020, and the Thirteenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on October 31, 2020, which are set to expire on December 1, 2020, shall be extended and continue in full force and effect through January 15, 2021.

5. With regard to criminal matters, the time period of December 1, 2020 through January 15, 2021 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 and the resulting need for an incremental, step-by-step approach to the resumption of jury trials as discussed above. Such exclusion is necessary as to any cases scheduled for trial during the December 1, 2020 through January 15, 2021 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 December 1, 2020 through January 15, 2021 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 periods in the Court's COVID-19 General Orders. 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.

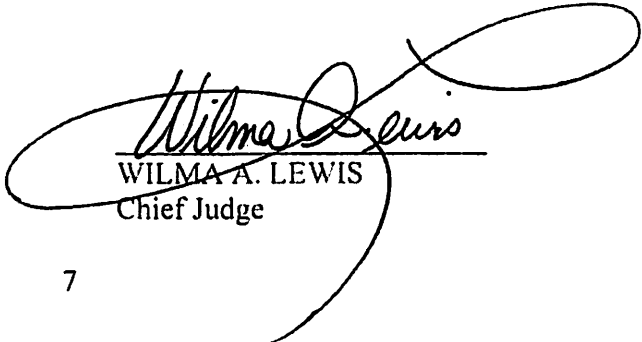
6. For any federal inmate released from imprisonment during the period December 1, 2020 through January 15, 2021, the Standard Condition of Release which requires such inmates to submit to one drug test within 15 days of release is waived.

7. By its terms, the Twelfth Order Concerning Operations of the District Court of the Virgin Islands concerning Videoconferences and Teleconferences for Criminal Proceedings, entered on October 6, 2020, shall remain in effect for 90 days from the date of that Order, unless terminated earlier or extended.

8. This Order shall remain in effect for the period December 1, 2020 through January 15, 2021 unless it, or any portion thereof, is modified or terminated earlier or extended by further Order of the Court.

SO ORDERED.

Date: November 30, 2020


WILMA A. LEWIS
Chief Judge