

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

IN RE:

)
) **General Order**
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**DISTRICT COURT OPERATIONS
DURING THE COVID-19
OUTBREAK**

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) **Miscellaneous No. 2020-0001**
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**TENTH 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, the Governor of the Virgin Islands, by Executive Order issued on March 13, 2020, declared a State of Emergency effective that date for the Virgin Islands in response to the spread of COVID-19; and

WHEREAS, deeming such State of Emergency necessary “to respond to and combat the COVID-19 pandemic” the State of Emergency for the Virgin Islands was extended through July 11, 2020, by Executive Order issued by the Governor of the Virgin Islands on May 4, 2020; and

WHEREAS, in Executive Orders and Supplements thereto issued from March 13, 2020 through July 1, 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; 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, and July 14, 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, in the Eighth Supplemental Executive Order and Proclamation issued on May 30, 2020, the Governor of the Virgin Islands, effective June 1, 2020, initiated the “Open Doors Phase of the State of Emergency,” but imposed specific guidelines and restrictions in light of the “danger and threat” that COVID-19 continued to present; and

WHEREAS, according to the Virgin Islands Department of Health COVID-19 report, as of June 11, 2020, there were 72 persons in the Virgin Islands who had tested positive for COVID-19, including 6 persons who had died of the disease; and

WHEREAS, in view of the initiation of the “Open Doors” Phase of recovery in the Virgin Islands on June 1, 2020, and the minimal increase in positive COVID-19 cases in the Territory between mid-May and mid-June, the District Court entered its Seventh General Order on June 12, 2020, which continued the implementation of the precautionary and preventive measures previously imposed, while taking the first steps toward a gradual return to full operations by rescinding the March 20, 2020 teleworking authorization for Court personnel effective June 15,

2020, and relaxing the March 17, 2020 suspension of grand jury sessions and the empanelment of new grand juries; and

WHEREAS, during the period June 28, 2020 to July 13, 2020, there was a sharp spike in positive COVID-19 cases in the Virgin Islands, resulting in an increase from 81 cases on June 28, 2020, to 122 cases on July 7, 2020, to 217 cases on July 13, 2020; and

WHEREAS, as a result of the aforementioned spike in positive COVID-19 cases, the District Court reinstated the authorization of teleworking for all Court personnel; placed a pause on grand jury proceedings; and entered its Ninth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak on July 14, 2020, which continued the implementation of precautionary and preventive measures previously imposed; and

WHEREAS, following an automatic extension of the State of Emergency for the Virgin Islands through August 10, 2020, the State of Emergency was further extended through October 9, 2020, by Executive Order issued by the Governor of the Virgin Islands on August 4, 2020; and

WHEREAS, in the Thirteenth Supplemental Executive Order and Proclamation issued on August 13, 2020, the Governor of the Virgin Islands reported that there were 682 persons in the Virgin Islands who had tested positive for COVID-19, including 9 persons who had died of the disease; and

WHEREAS, in the aforementioned Thirteenth Supplemental Executive Order and Proclamation, the Governor of the Virgin Islands returned the Territory to a “Stay-At-Home” Phase, finding that such action was “vital to the protection, health, safety and welfare of residents and visitors of the Territory”; and

WHEREAS, the “Stay-At-Home” Phase includes a Stay at Home Order, effective August 17, 2020 at 6:00 a.m. to August 31, 2020 at 6:00 a.m., which requires, *inter alia*, the public to stay at home and non-essential businesses and churches to cease in-person business operations; and

WHEREAS, the “Stay-At-Home” Phase also restricts mass gatherings to no more than 10 persons, and imposes—for varying periods—prohibitions and restrictions on the operation, *inter alia*, of hotels, guest houses, restaurants, bars, nightclubs, taxicabs, and schools; and

WHEREAS, on August 29, 2020, the Governor of the Virgin Islands announced that he will be signing an Executive Order that will extend the Stay-At-Home Order to September 8, 2020 at 8:00 a.m.; 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, the COVID-19 cases in the Virgin Islands continued to rise during the period of the Court’s Ninth Order—from 263 positive cases including 6 deaths on July 16, 2020, to 1,134 positive cases including 14 deaths on August 30, 2020; and

WHEREAS, jury selection in the District of the Virgin Islands frequently involves large jury venire pools, which often consist of individuals in—or who care 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

WHEREAS, in view of the significant increase in positive COVID-19 cases in the Virgin Islands; the serious public health concerns that COVID-19 continues to present; the challenges of convening a representative jury venire under the circumstances created by the COVID-19 pandemic; the current “Stay-At-Home” Phase and related Orders imposed by the Governor of the Virgin Islands; and the need for continuing development, dissemination and implementation of protocols so as to facilitate the safe reopening to the public of, and 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 (collectively, “Federal Courthouses”), the District Court finds it necessary to continue the implementation of precautionary and preventive measures previously imposed;

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. With the exception of trials conducted remotely, all civil and criminal jury and bench trials scheduled before any judge or magistrate judge in either Division of the Court, from September 1, 2020 through September 30, 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. Except as otherwise stated 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, and the Ninth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on July 14, 2020, which are set to expire on September 1, 2020, shall be extended and continue in full force and effect through September 30, 2020.

5. With regard to criminal matters, the time period of September 1, 2020 through September 30, 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 September 1, 2020 through September 30, 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 September 1, 2020 through September 30, 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 to ensure 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.

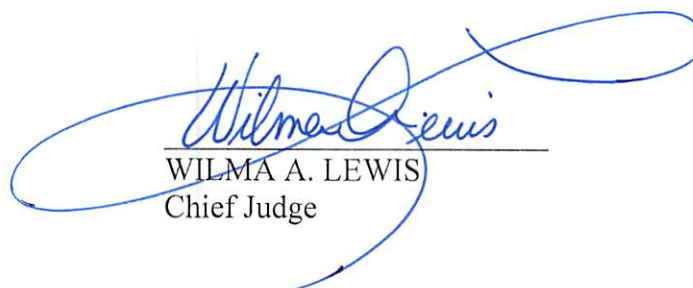
6. For any federal inmate released from imprisonment during the period September 1, 2020 through September 30, 2020, the Standard Condition of Release which requires such inmates to submit to one drug test within 15 days of release is waived.

7. By its terms, the 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.

8. This Order shall remain in effect for the period September 1, 2020 through September 30, 2020 unless it, or any portion thereof, is modified or terminated earlier or extended by further Order of the Court.

SO ORDERED.

Date: August 31, 2020



WILMA A. LEWIS
Chief Judge