

**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)
_____)

**THIRTY-FOURTH ORDER CONCERNING OPERATIONS OF
THE DISTRICT COURT OF THE VIRGIN ISLANDS
DURING THE COVID-19 OUTBREAK**

UPON CONSIDERATION of the current conditions surrounding the Coronavirus Disease (“COVID-19”) cases in the Virgin Islands and the associated circumstances described herein, this General Order will reinstate certain in-person proceedings that were suspended pursuant to the Thirty-Second Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak. This Order will take effect on March 1, 2022, and will remain in effect through March 31, 2022, unless modified or terminated earlier or extended by further Order of the Court.

WHEREAS, in response to the spread of COVID-19, a public health emergency and a national emergency under the National Emergencies Act (50 U.S.C. §§ 1601 *et seq.*) were declared by the Secretary of the United States Department of Health and Human Services and the President of the United States on January 31, 2020, and March 13, 2020, respectively; and

WHEREAS, on February 24, 2021, the President of the United States issued an Order continuing the national emergency declared in connection with the COVID-19 pandemic, and on July 19, 2021, the Secretary of Health and Human Services renewed the declaration that a public health emergency continues to exist nationwide; 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, in response to the spread of COVID-19, the Governor of the United States 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a State of Emergency on March 13, 2020, which has been extended on multiple occasions and continues in effect until rescinded or superseded by Executive Order; and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 2020 to the present, the Governor of the U.S. 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 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, October 31, 2020, November 30, 2020, December 12, 2020, January 4, 2021, January 15, 2021, February 12, 2021, March 31, 2021, April 4, 2021, April 30, 2021, May 31, 2021, June 30, 2021, July 3, 2021, July 29, 2021, August 30, 2021, September 30, 2021, October 1, 2021, October 31, 2021, November 30, 2021, December 30, 2021, and January 31, 2022, 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 its various General Orders, the Court has recognized—and continues to recognize—that the continuing danger and threat to public health and safety that COVID-19 poses

and the unpredictability and uncertainty of the COVID-19 impact in the Territory at any given time require, *inter alia*, the continued monitoring of the COVID-19 climate in the Virgin Islands and the continental United States; the continued implementation of precautionary and preventive measures aimed at addressing the exigencies of the circumstances presented; 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, based on the Court's continued monitoring of the COVID-19 climate in the Virgin Islands, the Court has adjusted its operations during the course of the COVID-19 pandemic as the circumstances warranted; and

WHEREAS, from mid-March 2020 through September 2020, mid-December 2020 through April 30, 2021, August 1, 2021 through October 31, 2021, and January 1, 2022 through January 31, 2022, the precautionary and preventive measures imposed by the Court included, *inter alia*, the continuance of all civil and criminal bench and jury trials; 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, in the Court's Thirty-Third Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on January 31, 2022, and implemented effective February 1, 2022, the Court permitted the resumption of certain in-person proceedings, which consisted of the resumption of grand jury proceedings, the conduct of Central Violations Bureau proceedings, Citizenship and Immigration Services Naturalization Ceremonies, and the resumption of Clerk's Office counter services; and

WHEREAS, according to the Virgin Islands Department of Health COVID-19 reports, the COVID-19 infection rate in the Virgin Islands has continued to decline in recent weeks, with a

decrease from 4,797 positive cases in the Territory from January 1, 2022, to January 31, 2022 (corresponding to an average of 154.74 positive cases per day), to 460 positive cases from February 1, 2022, to February 25, 2022 (corresponding to an average of 18.4 positive cases per day); and

WHEREAS, as reported by the Virgin Islands Department of Health, 460 new positive test results were recorded out of 19,579 tests administered from February 1, 2022, to February 25, 2022, corresponding to a positivity rate of 2.35%; and

WHEREAS, based on the downward trend in the number of persons testing positive for COVID-19 in the Virgin Islands and the corresponding positivity rates, as reported by the Virgin Islands Department of Health, the Court concludes that, with the continued implementation of appropriate protocols, the Court can continue the resumption of certain activities authorized pursuant to the Thirty-Third Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak issued on January 31, 2021; 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 who remain involved in at-home virtual learning, thus increasing the likelihood of the unavailability of a significant number of potential jurors and the challenges of convening a representative jury venire; and

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 District Court shall continue the extended soft reopening of Court operations that was authorized on February 1, 2022, which permits the following:

- a. Grand jury proceedings may be conducted, provided that quorums can be established.
- b. Central Violations Bureau proceedings may be conducted.
- c. Citizenship and Immigration Services may conduct in-person Naturalization Ceremonies as approved by the presiding judicial officer.
- d. Clerk's Office counter services will continue, 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.

3. The extended soft reopening of Court operations shall include the incremental resumption of civil and criminal jury trials before any judge or magistrate judge in either Division of the Court, as determined and scheduled by the presiding judge. The Court may issue further Orders concerning the incremental resumption of jury trials as may be deemed necessary and appropriate. All jury trials to be conducted pursuant to this Order will be determined and scheduled by further Order of the assigned judicial officer.

4. With regard to criminal matters, the time period of March 1, 2022 through March 31, 2022, 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 as discussed herein and in the Court's prior General Orders. Such exclusion is necessary as to any cases scheduled for trial during the March 1, 2022 through March 31, 2022 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 March 1, 2022 through March 31, 2022 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 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.

5. The March 1, 2022 through March 31, 2022 continuances granted in criminal matters as discussed above shall also apply to the time limits established by the Interstate Agreement on Detainers, 18 U.S.C. app. 2, § 2 (art. III), in that the detainee shall be deemed to be "unable to stand trial" for that period pursuant to 18 U.S.C. app. 2, § 2 (art. VI(a)).

6. As applicable, teleconference and videoconference hearings shall proceed in accordance with the Thirty-First Order Concerning Operations of the District Court of the Virgin Islands, Video and Teleconferences for Criminal Proceedings, entered on December 30, 2021.

7. 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. Parties are encouraged to utilize

teleconference, videoconference, and other similar means that facilitate the effective accomplishment of assigned tasks without compromising the health and safety of those involved. Further, mediators are authorized and encouraged to permit participation in any mediation ordered pursuant to Rule 3.2 of the Local Rules of Civil Procedure via teleconference and/or videoconference. Any dispute over whether discovery, mediation, or other pretrial activities can be effectively and timely accomplished in a manner consistent with applicable health guidelines may be referred to the magistrate judge for resolution.

8. For any federal inmate released from imprisonment during the period of March 1, 2022 through March 31, 2022, the Standard Condition of Release which requires such inmates to submit to one drug test within 15 days of release is waived.

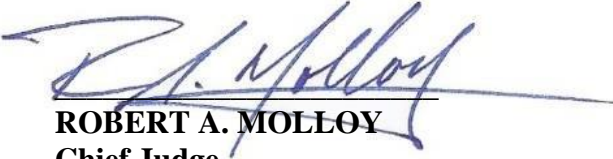
9. Except as otherwise stated in, or inconsistent with, this General Order, the First, Second, Fourth, Sixth, Seventh, Ninth, Tenth, Eleventh, Thirteenth, Fourteenth, Fifteenth, Seventeenth, Eighteenth, Nineteenth, Twenty-First, Twenty-Second, Twenty-Third, Twenty-Fifth, Twenty-Sixth, Twenty-Seventh, Twenty-Ninth, Thirtieth, Thirty-Second, and Thirty-Third Orders Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak, which are set to expire on February 28, 2022, shall be extended and continue in full force and effect through March 31, 2022.

10. By its terms, the Thirty-First Order Concerning Operations of the District Court of the Virgin Islands, Video and Teleconferences for Criminal Proceedings, entered on December 30, 2021, shall remain in effect for 90 days from the date of that Order, unless terminated earlier or extended.

11. This Order shall remain in effect for the period of March 1, 2022 through March 31, 2022, unless it, or any portion thereof, is modified or terminated earlier or extended by further Order of the Court.

SO ORDERED.

Date: February 28, 2022



ROBERT A. MOLLOY
Chief Judge