

**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)
_____)

**TWENTY-SIXTH ORDER CONCERNING OPERATIONS OF
THE DISTRICT COURT OF THE VIRGIN ISLANDS
DURING THE COVID-19 OUTBREAK**

UPON CONSIDERATION of the recent surge in coronavirus disease (“COVID-19”) cases in the Virgin Islands and the associated circumstances described herein, the instant General Order reinstates the restrictions on Court operations imposed at the outset of the pandemic. This Order will take effect on September 1, 2021, and will remain in effect through September 30, 2021, 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, as of May 20, 2021, the CDC and other public health authorities continue to recommend (1) avoiding large events and gatherings, when possible, (2) requiring individuals at large gatherings to wear masks, and (3) requiring individuals at large gatherings to stay at least 6 feet away from people who don't live with them; 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a State of Emergency on March 13, 2020, which has been extended on multiple occasions and continues in effect until rescinded or superseded by Executive Order; and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 2020 to the present, 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, the Governor's most recent Executive Order issued on August 13, 2021, keeps in place most of the guidance and directives contained in his January 27, 2021 Order as to the activities that are restricted and those that are permitted during the current "Safer-at-Home Phase," including *inter alia*, the continued closure of childcare facilities and public-school campuses; 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, and July 29, 2021, 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 2021, and August 1, 2021 to present, 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 Eighteenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on February 12, 2021—as continued by the Court’s Nineteenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak, entered on March 31, 2021—the Court announced a “soft reopening” of operations, which consisted of the resumption of grand jury proceedings, the conduct

of in-person court proceedings for any matters that do not involve large numbers of persons in the courtroom; the conduct of Central Violations Bureau proceedings; and the resumption of Clerk's Office counter services; and

WHEREAS, in its Twenty-First Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on April 30, 2021—as continued by its Twenty-Second Order entered on May 31, 2021, Twenty-Third Order entered on June 30, 2021, and Twenty-Fifth Order entered on July 29, 2021—the Court extended the “soft reopening” of Court operations to include the incremental resumption of civil and criminal jury trials; and

WHEREAS, there has been a recent surge in COVID-19 cases in the continental United States attributed to the emergence of the Delta variant, which is reported to be at least twice as transmissible as the original strain and potentially more deadly; and

WHEREAS, on July 21, 2021, the Virgin Islands Department of Health confirmed the presence of the Delta variant in the Virgin Islands; and

WHEREAS, according to the Virgin Islands Department of Health COVID-19 reports, there has been a recent spike in COVID-19 cases in the Virgin Islands, resulting in an increase from 4663 positive cases and 255 active cases on August 1, 2021, to 5848 positive cases and 269 active cases on August 27, 2021, corresponding to an average of 45.58 cases per day;¹ and

¹ In comparison, when the Virgin Islands experienced a surge of COVID-19 cases in August, 2020, 718 new positive test results were recorded out of 7,051 tests administered from July 31, 2020, to August 31, 2020, corresponding to an average of 23.16 positive cases per day and a positivity rate of 10.18%. Additionally, when the Virgin Islands experienced a surge of COVID-19 cases in December, 2020, 486 new positive test results were recorded out of 7,148 tests administered from November 30, 2020, to December 31, 2020, corresponding to an average of 15.68 positive cases per day and a positivity rate of 6.80%.

WHEREAS, as reported by the Virgin Islands Department of Health, 1185 new positive test results were recorded out of 20,665 tests administered from August 1, 2021, to August 27, 2021, corresponding to a positivity rate of 5.73%;² and

WHEREAS, according to the Virgin Islands Department of Health COVID-19 reports, from August 1, 2021, to August 27, 2021, the total fatalities from COVID-19 have risen from 39 deaths to 53 deaths; and

WHEREAS, as of August 14, 2021, the Governor of the Virgin Islands announced that 39 individuals were hospitalized throughout the Territory, none of which were fully vaccinated, with 9 of those individuals on ventilators; and

WHEREAS, according to the Virgin Islands Department of Health, as of August 24, 2021, 40,874 individuals—corresponding to 45.73% of the vaccine-eligible population—are fully vaccinated and 49,919 individuals—corresponding to 55.85% of the vaccine-eligible population—have obtained at least one dose of a vaccine; 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

WHEREAS, in light of the serious public health concerns that COVID-19 presents, the surge in COVID-19 cases in the continental United States, the recent spike in COVID-19 cases in the Virgin

² In comparison, when the Court implemented a soft reopening in October 2020, and instituted an incremental resumption of jury trials in November 2020, the positivity rate for the month of October was 1.46%. Additionally, when the Court instituted the incremental resumption of jury trials in May 2021, the positivity rate for the month of April was 1.08%.

Islands, and the well-publicized concerns regarding the danger of the Delta variant, the District Court finds it necessary to reinstate the restrictions imposed on the operations of the Court at the outset of the pandemic;

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. 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, 2021, through September 30, 2021, 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. Sitting grand juries in each Division of the Court are not authorized to meet from September 1, 2021, through September 30, 2021, and no new grand juries will be empaneled during this period.

4. With regard to criminal matters, the time period of September 1, 2021 through September 30, 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 as discussed herein and in the Court's prior General Orders. Such exclusion is necessary as to any cases scheduled for trial during the September 1, 2021 through September 30, 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 September 1, 2021 through September 30, 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 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 September 1, 2021 through September 30, 2021 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. All Central Violations Bureau proceedings from September 1, 2021, through September 30, 2021, are continued pending further Order of the Court.

7. All in-person court proceedings shall be limited to those that are required by law and are not amenable to continuance. All judicial officers are encouraged to conduct proceedings by teleconference or videoconference where practicable and as permitted by law. As applicable, teleconference and videoconference hearings shall proceed in accordance with the Twenty-Fourth

Order Concerning Operations of the District Court of the Virgin Islands Concerning Videoconferences and Teleconferences for Criminal Proceedings, entered on July 3, 2021.

8. 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.

9. All judicial officers and employees are authorized to conduct proceedings and to work from remote locations to the greatest extent practicable, unless their physical presence at the Almeric L. Christian Federal Building and Courthouse on St. Croix or the Ron de Lugo Federal Building and Courthouse on St. Thomas is necessary by virtue of the in-person nature of the proceedings or work.

10. Judicial officers and Court personnel will remain available to conduct the business of the Court consistent with the provisions of this Order. Please utilize the following contact information, as applicable, to communicate orally with the Court:

Division of St. Croix

General Operational Questions: 340-712-7115

Criminal matters: 340-712-7104

Jury matters: 340-712-7106

Civil matters: 340-712-7103

Division of St. Thomas/St. John

General Operational Questions: 340-775-8005

Criminal matters: 340-775-8004

Jury matters: 340-775-8001

Civil matters: 340-775-8005

The Court will provide any updates to this contact information that may be necessary on its website at www.vid.uscourts.gov. Accordingly, please refer to the Court's website if you are unable to contact the Court using any of the contact numbers listed above.

11. The established contact information for arrests and related proceedings remains in place.

12. Electronic filing remains available through CM/ECF, the District Court's electronic case management system. Pro se litigants who are not CM/ECF filing users may file documents with the Court via email at vidoperations@vid.uscourts.gov or by mailing the documents to the Court at the applicable address below:

Division of St. Croix

District Court of the Virgin Islands
Almeric L. Christian Federal Building and Courthouse
3013 Estate Golden Rock, Suite 219
St. Croix, VI 00820

Division of St. Thomas/St. John

District Court of the Virgin Islands
Ron de Lugo Federal Building and Courthouse
550 Veterans Drive, Room 310
St. Thomas, VI 00802

13. For the period of September 1, 2021 through September 30, 2021, there will be no in-person counter services at the Clerk's Office. Any payment of fees, fines, or restitution should be mailed to the Clerk's Office at the applicable address above.

14. All bail bonds must be presented in the form of a certified check or money order.

15. For any federal inmate released from imprisonment during the period of September 1, 2021 through September 30, 2021, the Standard Condition of Release which requires such inmates to submit to one drug test within 15 days of release is waived.

16. Except as otherwise stated in, or inconsistent with, this General Order, the First, Second, Fourth, Sixth, Seventh, Ninth, Tenth, Eleventh, Thirteenth, Fourteenth, Fifteenth, Seventeenth,

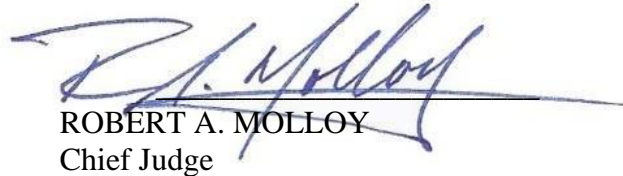
Eighteenth, Nineteenth, Twenty-First, Twenty-Second, Twenty-Third, and Twenty-Fifth Orders Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak, which are set to expire on September 1, 2021, shall be extended and continue in full force and effect through September 30, 2021.

17. By its terms, the Twenty-Fourth Order Concerning Operations of the District Court of the Virgin Islands, Video and Teleconferences for Criminal Proceedings, entered on July 3, 2021, shall remain in effect for 90 days from the date of that Order, unless terminated earlier or extended.

18. This Order shall remain in effect for the period of September 1, 2021 through September 30, 2021, unless it, or any portion thereof, is modified or terminated earlier or extended by further Order of the Court.

SO ORDERED.

Date: August 30, 2021


ROBERT A. MOLLOY
Chief Judge