



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

In re: Administrative Orders of the U. S. District Court

Case No. 3:40-mc-0011

SPECIAL ORDER # 2

On March 13, 2020, the United States District Court for the Southern District of Mississippi entered a Special Order addressing the Coronavirus pandemic. Since then, the pandemic has grown exponentially in the United States and this district. In response to the pandemic, the President first declared a national emergency and then, on March 27, 2020, signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Among other things, the CARES Act authorizes the use of video and telephone conferencing, under certain circumstances, for various criminal events during the COVID-19 emergency. *See* CARES Act, H.R. 748. The Judicial Conference of the United States has also found that emergency conditions due to the national emergency have affected and will materially affect the functioning of the federal courts generally.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. The Court's March 13, 2020 Special Order is superseded by this Order.
2. Effective immediately and through May 1, 2020, all non-essential civil and criminal matters set for hearing or trial in any federal courthouse within the Southern District are hereby continued. Initial appearances, arraignments, detention hearings, and issuance of warrants are deemed essential. As to all other currently set matters during this period, the presiding judge shall have sole discretion to determine whether they are essential and should go forward, or whether they can be conducted by videoconference or telephone. Each judge will so notify the affected parties and reset the matters as appropriate. These continuances will not

affect any other deadlines unless the presiding judge so indicates. Bankruptcy proceedings are not subject to this section and are discussed below.

3. Due to the Court's reduced ability to obtain an adequate spectrum of jurors, the reduced availability of attorneys, and a desire to protect those called as jurors, the period of the continuances implemented by this Order are excluded under the Speedy Trial Act, 18 U.S.C § 3161(h)(7)(A). The Court finds that the ends of justice served by ordering these continuances outweigh the best interests of the public and each defendant's right to a speedy trial. In fact, the best interests of the public are served by these continuances.

4. For all matters deemed essential, and all bankruptcy proceedings, counsel must notify the presiding judge (or bankruptcy trustee) and opposing counsel if that attorney or any individuals the attorney intends to bring to the courthouse have any of the following risk factors:

- Persons who have travelled outside their hometowns within the last 14 days;
- Persons who reside or have had close contact with someone who has travelled outside their hometowns within the last 14 days;
- Persons who a doctor, hospital, or health agency has asked to self-quarantine;
- Persons who have been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19;
- Persons with fever, cough, or shortness of breath;
- Persons who will be required to travel from outside the District for the proceeding;
- Any other persons who would raise a reasonable concern of exposure.

Counsel must contact persons they wish to bring to the courthouse and ask whether they have these risk factors.¹ If so, counsel must give notice as soon as possible, but no later than 24 hours before the proceeding. The presiding judge or trustee will have sole discretion to determine whether the proceeding should be delayed or can go forward, perhaps by alternative means. If

¹ This requirement may not be possible for initial appearances, arraignments, and related proceedings. Counsel is therefore instructed to comply to the extent practicable.

counsel is set to appear for a creditors' meeting, then notice must be provided to the trustee and not the judge.

5. All pre-trial detainees must be taken to the appropriate holding facility as determined by the United States Marshals Service (USMS), or its agents or designees, for medical screening before appearing in court for proceeding that has been deemed essential. The presiding judge should be notified before transport to the courthouse if the detainee exhibits risk factors.

6. The USMS, in conjunction with the Court Security Officers (CSOs), shall have the authority to screen any visitors to a federal courthouse within the district and prevent them from entering if they present a risk of contamination. The USMS is directed to prepare recommended best practices for screening visitors and is hereby authorized to implement those procedures once developed. If an individual is stopped, the USMS or CSO must immediately notify the presiding officer by telephone. This could include the presiding federal judge, the Clerk of Court, the presiding bankruptcy trustee, the Chief Probation Officer, United States Attorney, or head of any other building tenant. The presiding officer will then have authority to decide how the matter should be handled, including entry with appropriate precautions.

7. All judges and counsel are encouraged to utilize videoconferencing and teleconferencing to the extent possible to avoid unnecessary disruption in the cases. To facilitate that intent, the Court makes the following additional findings with respect to criminal proceedings addressed in the CARES Act.

A. As Chief Judge, and under Section 15002(b)(1) of the legislation, I hereby authorize the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, for all events listed in Sections 15002 of the CARES Act.

B. Under Section 15002(b)(2), I further specifically find that felony pleas under Federal Rule of Criminal Procedure 11 and felony sentencings under Rule 32 cannot be conducted in person in this district without seriously jeopardizing public health and safety. As a result, if judges in individual cases find, for specific reasons stated in the record, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, the judges may use video conferencing for felony pleas and sentencings in those cases, and may use teleconferencing if video conferencing is not reasonably available.

C. Video conferencing (or alternatively telephonic conferencing) as described in paragraphs A and B may not occur unless the defendant consents after consultation with counsel. Consent must be in writing.

D. All counsel wishing to conduct proceedings by video conference must comply with the Court's Video-Conferencing Plan as posted on the Court's website.²

The Court recognizes that it is impossible to cover all possible contingencies and that the situation remains fluid. This Order is therefore designed to give the presiding officers flexibility to address issues as they arise while implementing necessary safeguards. This order may be extended or modified on or before May 1, 2020.

SO ORDERED, this the 31st day of March, 2020.


CHIEF UNITED STATES DISTRICT JUDGE

² The Court is still negotiating with various entities regarding the Video-Conferencing Plan, so please note that it is subject to change. The current plan will be posted on the Court's website; counsel should check for revisions before making arrangements.