

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

In re: Extending the Excludable Time under  
The Speedy Trial Act, 28 U.S.C. § 3161(h)(7)  
In Criminal Matters.

Administrative Order

20-AO-039

ADMINISTRATIVE ORDER

The Court issues this Administrative Order as another in a series of Administrative Orders to address court operations during the time of the spread of the Coronavirus Disease that emerged in 2019, known as COVID-19.

In response to a declaration on March 13, 2020, under the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, that the COVID-19 outbreak constitutes a national emergency, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which was signed into law on March 27, 2020. Under section 15002(1) of that Act, on March 29, 2020, the Judicial Conference of the United States found that emergency conditions due to the declared national emergency with respect to COVID-19 have materially affected and continue to materially affect the functioning of the federal courts. The CARES Act authorized the use of video teleconferencing and telephone conferencing for all court criminal hearings listed in section 15002(b).

On March 23, 2020, the Governor of the State of Michigan issued Executive Order No. 2020-21, “A Temporary Requirement to Suspend Activities that are not Necessary to Sustain or Protect Life,” which was extended by several orders and has since expired. On June 5, 2020, the Governor issued Executive Order No. 2020-115, “Temporary restrictions on certain events, gatherings, and businesses,” which imposed social distancing measures, wearing masks, restrictions on gatherings, and encouraged work to be performed remotely. The Governor of the State of Michigan extended the state of emergency through August 11, 2020 in Executive Order No. 2020-151, “Declaration of state of emergency and state of disaster related to the COVID-19 pandemic.” As of July 19, 2020, there are 73,663 confirmed cases of COVID-19 (6,119 confirmed deaths) in Michigan (12,191 confirmed cases and 1,468 confirmed deaths in the City of Detroit alone). The 7-day moving average as of July 19, 2020 is at 618 cases, up from the lowest 7-day moving average on June 16, 2020 which was at 182 cases. The unprecedented and exigent circumstances created by COVID-19 and related coronavirus health conditions have created a health emergency throughout the United States and numerous foreign countries that has resulted in widespread societal disruption.

There continue to exist a public health crisis since there is no known cure to the virus and the virus continues to spread. COVID-19 has caused and continues to cause extraordinary disruption throughout this District, including, but not limited to, the

temporary closure of offices and schools; the imposition of crowd gathering restrictions; discouragement of the use of mass transportation; the dislocation of many residents; mandatory wearing of facemasks and disruptions and delays in the use of the mail. Cases of COVID-19 were diagnosed among employees working at the Detroit courthouse which required the closure of many court operations and made it impossible for most members of the court staff to appear in person for work. Continued contact restrictions put in by the detention facilities used by the U.S. Marshal's Service in this District hindered and continues to hinder the movement of defendants to and from court. Many of the detention facilities reported positive COVID-19 cases among the prisoners and staff.

The Court finds that considering these exigent conditions, proceeding with a jury trial at this time would be impossible, or result in a miscarriage of justice. See 18 U.S.C. § 3161(h)(7)(B)(i). The Court also finds that the ability of counsel for the defendant and for the government to prepare for trial is severely impaired by the health and travel restrictions imposed in light of the coronavirus outbreak in Michigan and elsewhere, and without a postponement of jury trials, counsel for the defendant and the attorney for the government will not have the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court further finds that due to the Court's reduced ability to obtain an adequate spectrum of jurors and the effect of the recommendations from the State of Michigan and public health organizations on the availability of counsel and Court staff to be present in the courtroom, the time period of the postponement implemented by this administrative order will be excluded under the Speedy Trial Act from July 2, 2020 until further of the Court, as the Court specifically finds that the ends of justice served by ordering the postponements outweigh the best interest of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A).

IT IS SO ORDERED.

FOR THE COURT:

S/Denise Page Hood  
Denise Page Hood  
Chief Judge