

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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IN THE MATTER OF SCHEDULING  
JURY TRIALS

SECOND AMENDED STANDING  
ORDER 20-08

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On March 17, 2020, Chief Judge Roberto A. Lange entered Standing Order 20-03, cancelling jury trials and grand jury proceedings through April 24, 2020, due to the outbreak of the respiratory disease COVID-19 in South Dakota and the bordering states. The COVID-19 virus continued to spread in the United States and within the State of South Dakota.

On April 8, 2020, because of the increasing spread of COVID-19 and after considering guidance from the Centers for Disease Control and consulting with representatives of numerous agencies, Chief Judge Lange entered a First Amended Standing Order 20-03 which extended cancellation of jury trials and grand jury proceedings through July 6, 2020.

Since July 6, 2020, some divisions of the District of South Dakota have experienced a decline in the spread of COVID-19 and have successfully conducted jury trials and allowed grand juries to convene. In the Western Division, COVID-19 positive test numbers are increasing substantially making it difficult to predict when jury trials may be safely conducted.

By a Third Amended Standing Order 20-03 issued on July 22, 2020, Chief Judge Lange left it to each judge in each division to determine whether COVID-19 continues to be a significant health issue in that judge's division. By the standing order, each district judge is authorized to determine whether there is an inability to safely call and retain an adequate cross-section of jurors in order to conduct criminal jury trials. Each judge is authorized to make findings as to whether the interests of justice are best served by continuing criminal jury trials and whether that decision outweighs the interest of the public and any defendant's right to a speedy trial. If the court makes those findings, it may exclude the resulting periods of delay under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A).

Standing Order 20-08 regarding the conduct of jury trials and the suspension of Speedy Trial Act rights was posted on July 27, 2020. That order was in effect until August 24, 2020. The court finds that since August 24,

2020, the Western Division of the District of South Dakota continues to experience rising COVID-19 positive test results, community spread of the virus and deaths caused at least in part by COVID-19. The court further finds the existing public health emergency and the need to follow guidance from the Centers for Disease Control continues to create an inability to safely call jurors for criminal jury trials. Accordingly, it is

ORDERED that the ends of justice are best served by the court making findings before each jury trial scheduled during October and November 2020 after determining whether the ongoing public health emergency and the ends of justice are best served by continuing the trial date. Continuing trial dates based on the court's findings outweigh the interest of the public and any defendant's right to a speedy trial.

IT IS FURTHER ORDERED that pursuant to the Third Amended Standing Order 20-03, this Amended Standing Order 20-08, and until further order of the court the periods of delay resulting from continuances are excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) for the period commencing October 2, 2020 to November 30, 2020.

Dated October 1, 2020.

BY THE COURT:

  
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JEFFREY L. VIKEN  
UNITED STATES DISTRICT JUDGE