

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

IN THE MATTER OF SCHEDULING
JURY TRIALS

STANDING ORDER

20-08

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 and it was projected that the number of COVID-19 infections in South Dakota would not crest until sometime in June 2020.

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 continues to spread 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).

The court finds that since July 7, 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 continuing criminal jury trials until August 24, 2020, and that decision outweighs the interest of the public and any defendant's right to a speedy trial. The court will make particularized findings as to the criminal jury trial presently scheduled for August 18, 2020, after determining whether this trial may safely proceed.

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

Dated July 27, 2020.

BY THE COURT:



JEFFREY L. VIKEN
UNITED STATES DISTRICT JUDGE