

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA**

**IN THE MATTER OF  
COURT OPERATIONS DURING THE  
CORONAVIRUS (COVID-19) PANDEMIC**

**STANDING ORDER 21-01  
AMENDING PRIOR  
STANDING ORDERS 20-03  
(RESUMPTION OF JURY  
PROCEEDINGS)**

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In response to the outbreak of the novel coronavirus (COVID-19), the Court on March 17, 2020, entered Standing Order 20-03, cancelling jury and grand jury proceedings through April 24, 2020. The COVID-19 virus then spread in the United States and within the State of South Dakota, prompting the Court in early April to extend cancellation of jury trials and restrictions on grand jury proceedings through July 6, 2020, under First Amended Standing Order 20-03. In late May, this Court entered Second Amended Standing Order 20-03 permitting grand jury proceedings to resume in Pierre in June. After July 6, 2020, the Court, utilizing a procedure to mitigate risks of virus spread inside of courthouses, successfully conducted jury trials in the District of South Dakota, as well as allowed grand juries to convene district wide. COVID-19 cases in South Dakota then surged making it hard to predict whether jury trials could be safely conducted in all divisions of the District of South Dakota, so the Court in late July entered Third Amended Standing Order 20-03 to leave it to individual judges to evaluate and determine whether and when to conduct jury trials. The spread of COVID-19 infections in South Dakota intensified in October and November of 2020, with hospitals at or near capacity and South Dakota having some of the highest rates of hospitalizations and deaths in the nation and world. The Court therefore entered Fourth Amended Standing Order 20-03 suspending jury trials and certain grand jury proceedings between November 25, 2020, and January 25, 2021. The pace of new infections in South Dakota has moderated such that the Court believes that some jury trials and grand jury proceedings may resume in the discretion of the presiding judge depending on the regional status of the COVID outbreak. Therefore,

**IT IS ORDERED:**

1. The District of South Dakota will resume jury trials as of January 25, 2021. However, if a judge is convinced that, due to COVID-19 spread in a particular division, there is an inability to safely call and retain an adequate cross-section of jurors, the judge may make a finding that the ends of justice served by continuing criminal jury trials outweigh the best interests of the public

and any defendant's right to a speedy trial, and may exclude the periods of delay occasioned by such a continuance under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A).

2. Non-jury proceedings, such as bench trials and hearings, may proceed as scheduled in the discretion of the presiding judge. The parties are encouraged to consider participation by telephone or video conferencing when that option is available. Standing Order 20-05 and the CARES Act authorize conduct of certain hearings in criminal cases by videoconference or by telephone if videoconference is unavailable.

3. Grand jury proceedings in the District of South Dakota may resume. During grand jury proceedings, all people in the courtroom must wear masks until and unless behind a plexiglass enclosure. Empanelment of new grand juries may take place in a secured auditorium outside of the courthouses.

4. All deadlines established in civil cases will remain in place, although the Court will be receptive to motions from the parties to enlarge deadlines in civil cases due to disruption caused by social distancing requirements and travel restrictions. Parties are encouraged to consider conducting discovery through means that avoid unnecessary travel or personal contact, such as by telephone or video conferencing, and to consult and seek to agree, if possible, on any enlargement of civil case deadlines. Any dispute over whether discovery can be effectively accomplished consistent with applicable public health guidelines may be submitted to the Court by motion.

5. Except as set forth herein, Court business will proceed as usual to the extent possible consistent with public health guidelines. The policies and safety procedures to promote public health in access to and proceedings in the federal courthouses shall remain in place.

DATED this 7<sup>th</sup> day of January, 2021.



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ROBERTO A. LANGE, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA