

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

**IN THE MATTER OF
CHANGES TO COURT OPERATIONS
DUE TO CORONAVIRUS DISEASE
(COVID-19)**

**SECOND AMENDED
STANDING ORDER 20-03**

In response to the outbreak of the respiratory disease COVID-19 in South Dakota and bordering states, 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, and the South Dakota Governor's Office projected that the number of COVID-19 infections in South Dakota would not crest until sometime in June 2020. After considering current guidance from the Centers for Disease Control and after consulting with representatives of numerous agencies, including but not limited to the Federal Public Defender's Office, the United States Attorney's Office, the United States Probation Office, and the United States Marshals Service, the Court entered a First Amended Standing Order 20-03 on April 8, 2020, that extended cancellation of jury trials and restrictions on grand jury proceedings through July 6, 2020. After further consultation and planning, the Court now believes that there exists a way to safely convene a grand jury in the District of South Dakota in June 2020, requiring some change to Paragraph 3 of this Standing Order. Accordingly,

IT IS ORDERED:

1. All civil and criminal jury trials scheduled to commence on or before July 6, 2020, before any judge in the District of South Dakota will be **continued** pending further order of the Court. Because of the Court's inability to safely call and retain an adequate cross-section of jurors, and the impact of public health recommendations on the availability of clients, counsel, and court staff to be present in the courtroom, the Court specifically finds that the ends of justice served by continuing all criminal jury trials outweigh the best interests of the public and any defendant's right to a speedy trial, and the periods of delay occasioned by the continuances implemented by this Standing Order are therefore excluded 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.

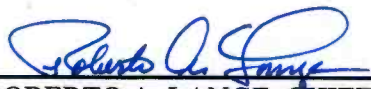
3. Grand jury proceedings in the District of South Dakota may resume in June 2020 using the large fourth floor courtroom in Pierre. During grand jury proceedings, all people in the courtroom must wear masks. The 30-day time period for filing an indictment or an information is hereby tolled as to each defendant charged by criminal complaint during the time period between March 17, 2020, and the return of an indictment, which in no event shall be later than within 30 days of July 6, 2020, pursuant to 18 U.S.C. §§ 3161(b) and 3161(h)(7)(A). For the same reasons discussed above, the Court finds that the ends of justice served by taking action set forth in this Standing Order outweigh the best interests of the public and any defendant's right to a speedy trial, and therefore the Court excludes that time period under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A).

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.

6. The Court will vacate, extend, or amend this Order no later than July 6, 2020.

DATED this 21st day of May, 2020.



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