

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

IN THE MATTER OF

**SUSPENDING THE POLICY FOR
SIGNED CONSENTS TO
ACCOMPANY DEFENSE MOTIONS
TO CONTINUE TRIALS IN
CRIMINAL CASES**

STANDING ORDER 20-04

The District of South Dakota years ago adopted a policy and practice that defense attorneys in criminal cases seeking a continuance of trials file a written consent to the continuance signed by the defendant whom they represent. This policy, enforced by the Court denying defense motions for continuances not supported by a signed consent of the defendant, aimed to avoid situations where defendants wrote separately to the Court opposing motions for continuance or later contended that their Speedy Trial Act rights were violated because they had not consented to any continuance. No provision of the Federal Rules of Criminal Procedure requires defense counsel to file a signed consent from a defendant with a defense motion for continuance of a criminal trial. With restricted in person access to inmates being enforced at jails and the directive from the Center for Disease Control to practice social distancing to mitigate the COVID-19 outbreak, the Court believes that there exists a better alternative to requiring such signed consents from defendants in criminal cases. Therefore,

IT IS ORDERED:

1. The Court suspends the policy for defense attorneys seeking continuance of criminal trials to file consents to continuance signed by their clients.
2. Defense attorneys instead are expected to confer (whether in person or by telephone) with their clients about whether to file a motion to continue a criminal trial and obtain the consent (whether oral or written) of their client before filing such a motion. Defense counsel are expected to state in the motion that they have conferred with the defendant in the criminal case and have obtained his or her consent to filing the motion.

3. This Standing Order does not change or affect the requirement that defendants in a criminal cases sign plea agreements, supplements to plea agreements, or factual basis statements. This Standing Order will remain in effect only during the time when South Dakota jails are restricting in person access to federal pretrial detainees and social distancing expectations remain in place.

DATED this 20th day of March, 2020.



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