

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

MAR 23 2020

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

IN RE:)
HANDLING OF CRIMINAL CASES)
UNDER THE EXIGENT)
CIRCUMSTANCES CREATED)
BY THE COVID-19 VIRUS.)

Administrative Order No. 262

ADMINISTRATIVE ORDER

In addition to the matters addressed in Amended Administrative 261 dated March 21, 2020, the Court directs the following with respect to criminal cases now pending or to be filed in the Southern District of Illinois.

The Court finds that the outbreak of the coronavirus 2019 disease ("COVID-19") and Governor Pritzker's declaration of a disaster and entry of a "stay-at-home" Executive Order on March 20, 2020, extending through April 7, 2020, causes any delay incurred in arrestees being brought before a magistrate judge pursuant to Federal Rule of Criminal Procedure 5(a) during this period of time, by its nature, to be a necessary delay to protect all parties, counsel, and the public, as well as jail and court staff. Provisions of the Speedy Trial Act are not triggered until "the filing date (and making public) of the information or indictment" or "from the date the defendant has appeared before a judicial officer of the court in which [the] charge is pending" – whichever date last occurs. 18 U.S.C. § 3161(c)(1).

Magistrate judges shall provisionally appoint the Office of the Federal Public Defender on any new or recent arrests in cases where counsel has not appeared, subject to being vacated if the individual is later determined to not be indigent. Any such

appointment will, of course, be vacated if private counsel enters an appearance on behalf of a defendant.

The United States Marshals Service is **DIRECTED** to not transport any individuals subject to a writ of habeas corpus to the district between now and April 7, 2020.

If any defendant and his/her counsel or the United States Attorney seeks an immediate hearing before a magistrate judge before April 7, 2020, counsel shall file a motion making the request and explaining the reason an immediate hearing is needed. When possible, the motion shall be designated as a joint motion. If a joint request is not feasible, the magistrate judge will impose a short deadline for a response. **Any motions requesting a hearing shall be brought to the immediate attention of the appropriate magistrate judge's chambers.** Magistrate judges will decide on a case-by-case basis whether the circumstances call for an emergency hearing and, if deemed appropriate, a hearing will be set by the magistrate judge.

Any emergency hearing required before April 7, 2020, will be held remotely by video conferencing if the defendant consents pursuant to Federal Rule of Criminal Procedure 5(f). The Court will accept verbal consents on the record when the hearing is held, thus it is not necessary for counsel to secure a written waiver. Such requests should be made, for instance, when there is an argument for immediate release of the defendant or there is any other compelling reason that a hearing is absolutely necessary before April 7, 2020. The public and the press will be afforded an opportunity to attend the hearing remotely as directed by the magistrate judge. The Court is working to secure videoconferencing capabilities in all 16 facilities where criminal defendants are detained

in the district. A transfer to a facility with established videoconferencing may be necessary if a remote hearing is required and cannot be accomplished according to the current placement designated by the United States Marshals Service.

The Court continues to closely monitor the COVID-19 outbreak and guidance offered by the CDC and local public health officials and make necessary adjustments in the interest of public health and administration of justice. The Court will vacate or amend this Administrative Order no later than April 7, 2020.

IT IS SO ORDERED.

Dated this 23rd day of March, 2020.



NANCY J. ROSENSTENGEL
Chief U.S. District Judge