

FILED

APR 01 2020

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

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

IN RE:)
HANDLING OF CRIMINAL CASES)
UNDER THE EXIGENT) **Administrative Order No. 262**
CIRCUMSTANCES CREATED) **(First Amendment)**
BY THE COVID-19 VIRUS.)

AMENDED ADMINISTRATIVE ORDER

This Administrative Order amends and supersedes Administrative Order No. 262 dated March 23, 2020, relative to initial appearances in criminal cases before this Court.

Second Amended Administrative No. 261 dated April 1, 2020, regarding Court operations under the exigent circumstances created by the COVID-19 outbreak, and Administrative Order No. 263 dated March 30, 2020, authorizing the video teleconferencing and telephone conferencing in certain criminal proceedings pursuant to the CARES Act and addressing public and press access to those proceedings, remain in effect and will be amended as circumstances necessitate. This Amended Administrative Order No. 262 is intended to be read in conjunction with Second Amended Administrative No. 261 and Administrative Order No. 263.

The Court **FINDS** that the outbreak of the coronavirus 2019 disease ("COVID-19"), the declaration of an emergency by the Judicial Conference of the United States on March 29, 2020, and Governor Pritzker's declaration of a disaster and entry of a "stay-at-home" Executive Order now in effect until April 30, 2020, are materially affecting, and will continue to materially affect, the functioning of the federal courts generally, and this Court in particular through May 3, 2020.

The Court further **FINDS** that 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 May 3, 2020.

Administrative Order No. 263 dated March 30, 2020, authorizing the video teleconferencing and telephone conferencing in certain criminal proceedings pursuant to the CARES Act and addressing public and press access to those proceedings, provides an avenue of relief, provided the defendant consents to the use of video.

If any defendant and his/her counsel or the United States Attorney seeks an immediate in-person hearing before a magistrate judge before May 3, 2020 – as is his right – counsel shall file a motion making the request and stating 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

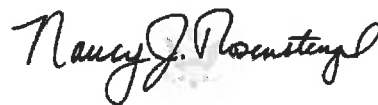
the circumstances call for an emergency hearing and, if deemed appropriate, a hearing will be set by the magistrate judge.

Any emergency hearing required before May 3, 2020, will be held remotely by video conferencing if the defendant consents pursuant to Federal Rule of Criminal Procedure 5(f), Administrative Order No. 263, and the CARES Act. 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 May 3, 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 May 3, 2020.

IT IS SO ORDERED.

Dated this 1st day of April, 2020.



NANCY J. ROSENSTENGEL
Chief U.S. District Judge