

DEC 31 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

JAMES W. McCORMACK, CLERK
James W. McCormack
DEP CLERK

IN RE: COURT OPERATIONS DURING COVID-19 PANDEMIC

ADMINISTRATIVE ORDER TEN

The Court was hopeful that a full complement of civil and criminal jury trials could be safely resumed after mid-January. See Administrative Order Eight. But positive cases, hospitalizations, and deaths have continued their generally upward trends during the last weeks.* Vaccinations are proceeding. The pace, though, is slower than planned, and that road is not short. Between thirty and sixty people must gather to hold a jury trial. A grand jury session typically involves approximately forty people: jurors, witnesses, and lawyers. Even with screening, distancing, masking, rearranged spaces, extra cleaning, and increased ventilation, the risk associated with extended gatherings this size remains substantial. Protecting members of the public and Court personnel, as well as keeping our Court open for essential operations, requires a further suspension of most jury trials and fewer grand jury sessions.

All civil and criminal jury trials scheduled between now and 23 March 2021 are continued to a later date to be set by the presiding Judge. If the presiding Judge finds that extraordinary circumstances

* www.healthy.arkansas.gov/programs-services/topics/novel-coronavirus

exist, either *sua sponte* or on a party's motion, any criminal trial setting may be reinstated. Citizens' inability and reluctance to serve on juries creates the possibility that our juries will not reflect a fair cross section of the Eastern District. And the current trends in the virus numbers indicate the substantial risk involved in holding jury trials. The Court therefore concludes that the ends of justice outweigh the public's interest, and the affected defendants' interests, in speedy criminal trials. 18 U.S.C. § 3161(h)(7)(A) & (B). Any period of delay resulting from this Administrative Order is therefore excludable time under the Speedy Trial Act.

Unless the Court directs otherwise for good cause, only one grand jury will meet in February 2021 and in March 2021. The ends of justice likewise outweigh any defendant's interest, and the public's interest, in a speedy indictment.

Administrative Order Nine's default rules for remote hearings and other proceedings in civil and criminal cases, and CARES Act authorizations, also remain in effect until 23 March 2021 or further Order of this Court.

The winter surge is here. It requires not only increased vigilance but also an essentials-only drill for Court operations during the coming months. Our Court takes these latest steps to ensure that our courthouses remain open and that the public's business will continue to be done in ways consistent with protecting public health. All the

active and senior United States District Judges and United States Magistrate Judges for the Eastern District of Arkansas concur in this Administrative Order.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
Chief Judge

31 December 2020