

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

FILED in the Middle District of North Carolina
May 26, 2021 3:06 pm
Clerk, US District Court By: <u> JSB </u>

IN RE:)
COURT OPERATIONS UNDER THE EXIGENT) STANDING ORDER 16
CIRCUMSTANCES CREATED BY COVID-19) (Amended)

**GUIDELINES FOR CIVIL AND CRIMINAL
HEARINGS DURING COVID-19 RESTRICTIONS**

This Standing Order supplements current Standing Orders 12 (as amended) (addressing limitations on entry to courthouses) and 15 (authorizing video and telephonic conferencing within the district for certain cases). Counsel, parties, and all other attendees shall be familiar with these Standing Orders.

The court continues to monitor the consequences of the pandemic of the novel coronavirus known as COVID-19. At the discretion of the presiding Judge, the court will conduct proceedings in eligible criminal cases by video or telephone conference, as authorized by the CARES Act, and in civil cases as appropriate. However, as conditions permit, Judges may conduct civil and criminal proceedings in open court. The following guidelines are designed to address such proceedings; individual Judges remain free to modify these guidelines for their own courtrooms and for specific cases depending on case-specific factors. At all times, the court will be mindful of the need to protect the health and safety of all involved in the proceedings as may be reasonable under the circumstances.

1. Health Condition. All individuals, to reduce risk prior to coming to court, should conduct a health self-assessment, to include taking their temperature. If an individual's temperature is greater than 100.4 or if an individual is exhibiting other signs of COVID-19 infection per CDC guidance (including cough, shortness of breath, difficulty breathing, chills, sore throat, or loss of taste or smell), the individual should stay home. As per Standing Order 12

(amended), any person not meeting the safety restrictions set forth therein shall not enter the U.S. Courthouse without the permission of the Chief Judge.

2. Vulnerable Individuals. Vulnerable individuals (including counsel) – those 65 years or older and people of all ages with (or living with those with) underlying medical conditions, particularly if not well controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, or chronic kidney or liver disease -- who are not fully vaccinated against COVID-19 (at least two weeks past the last required dose) will not be required to appear for hearing if excused by the presiding Judge on a timely prior motion, but are permitted if they so choose. If delays in criminal proceedings result because a defendant or his lawyer falls into this category, speedy trial deadlines may be adjusted as a result and as permitted by law.

3. Social Distancing. Counsel, parties, and those with an interest in official business who are not fully vaccinated against COVID-19 (at least two weeks past the last required dose) are expected to observe social distancing (of at least 6 feet) at all times entering and within the courthouse. Everyone should make every effort to limit items brought into the courthouse to avoid the necessity of a secondary screening by Court Security Officers.

4. Face Coverings. As per Standing Order 12 (Amended), all entrants to any courthouse building who are not fully vaccinated against COVID-19 (at least two weeks past the last required dose) are required to wear an appropriate face mask or cloth face covering in all public spaces, including courtrooms and security checkpoints. Counsel, parties, and participants who are not fully vaccinated against COVID-19 shall wear face masks or coverings during court proceedings unless directed by the court otherwise. A face mask or cloth face covering will be available for any criminal defendant who does not have one.

5. Scheduling. Whether to schedule a case for hearing shall be left to the discretion of the individual Judge. The court will endeavor to schedule cases for hearing at specific, individual times to reduce occupancy of the courthouse to the lowest degree possible. Counsel, parties, and attendees are strongly encouraged to arrive timely only for those cases in which they are personally involved or interested. The court may limit the number of individuals in the courtroom gallery. To the extent hearings on any particular day involve criminal defendants in custody, the U.S. Marshal may recommend to the presiding Judge to limit defendants from the same detention facility so as to reduce the possibility of community spread.

6. Pre-Hearing Conferences. Counsel in any criminal case will be permitted to meet with his or her client immediately prior to the hearing. Such meetings will occur in the traditional space provided by the United States Marshal for attorney-client meetings to allow for security and appropriate social distancing.

7. Conferences During Hearings. To the greatest extent practicable, social distancing shall be observed by all non-vaccinated individuals within the courtroom, including counsel and parties seated at counsel table. If at any time during the hearing counsel or a party requires a private consultation and desires further social distancing, they will be permitted to do so in the courtroom as traditionally handled, or by meeting in an adjacent conference room where social distancing may be observed, or by any other means the court considers adequate to reduce any health risk. Any extended meeting between counsel and a criminal defendant may occur in the traditional space provided by the United States Marshal for attorney-client meetings to allow for security and appropriate social distancing.

8. Cleaning. All appropriate areas of the courtroom, including at a minimum the surfaces in and around counsel table and the gallery previously occupied by any spectator, will be cleaned

and sanitized between hearings. To the extent possible, disinfectant wipes and/or hand sanitizer will be available at counsel tables in the courtroom. Anyone may bring an appropriate self-use supply of hand sanitizer or wipes into the courtroom.

9. Motions to Continue. Recognizing that circumstances and health risk issues can change rapidly, the court will consider health-based motions to continue at any time, including during the hearing. Any such motion made the day of a hearing may be made by counsel by telephone to the Judge's Case Manager or, in his or her absence, to the Court Services Supervisor without the necessity of a written motion as long as a subsequent confirming written motion is filed. The United States Marshal Service shall have the authority to refuse to transport any criminal defendant to the courthouse upon detection of any health risk. The Marshal shall notify the court as soon as reasonably possible should that occur.

This, the 26th day of May, 2021.

 /s/ Thomas D. Schroeder
Chief United States District Judge
FOR THE COURT