

FILED

MAR 24 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

CLERK, U.S. DISTRICT COURT,
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

ADDITIONAL ORDER REGARDING
SENTENCING HEARINGS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY
THE COVID-19 PANDEMIC

This additional Order is issued in response to the recent outbreak of novel coronavirus that causes the COVID-19 disease in the United States and the State of Texas and to specifically address sentencing hearings for certain defendants. This Order addresses defendants who are currently awaiting sentencing and have an advisory guidelines range of at least 21 months' imprisonment according to the presentence report. The World Health Organization has declared that COVID-19 qualifies as a global pandemic, having quickly spread across numerous countries with more than 42,000 confirmed cases in the United States as of the date of this Order. The United States District Court for the Western District of Texas has been closely monitoring the outbreak of novel coronavirus (which causes the disease designated as COVID-19), including careful monitoring of the developing guidance from the Centers for Disease Control and Prevention ("CDC"). The CDC has described the outbreak in the United States as a rapidly evolving situation and is providing continuously updated guidance as to appropriate community response for protection of life. The CDC's guidance includes multiple types of mitigation strategies generally aimed at social distancing as a way of reducing or avoiding exposure to infection.

As of the date of this Order, there have been multiple confirmed cases of COVID-19 within the Western District of Texas and additional confirmed cases are being reported daily. Cities and counties within the Western District of Texas have declared local states of disaster or emergency due to the spread of COVID-19. The Governor of Texas has declared a statewide disaster due to COVID-19. The President of the United States has also declared a national emergency due to COVID-19 and has ordered additional measures to contain and combat the virus in the United States. As of the date of this Order, there have been 520 deaths resulting from the virus reported in the United States, with as many as 100 deaths reported in the last 24 hours. In addition to social distancing, the CDC has recommended that events and gatherings should be severely restricted or canceled to limit community spread of COVID-19. The Governor of Texas has ordered people to avoid social gatherings of more than 10 at least through April 3, 2020. There have been hundreds of school closures throughout Texas and schools have closed within each division of the Western District of Texas. The Court is concerned with the health and safety of the public, Court employees, staff of other entities with whom Court personnel interact, litigants, witnesses, counsel, interpreters, law enforcement officials, and jurors, who must work in close quarters to hear evidence and to deliberate.

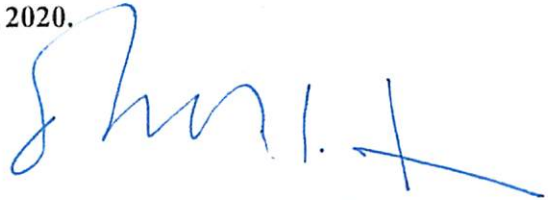
Therefore, given the severity of the risk to the persons listed above by the spread of COVID-19 in the Western District of Texas, and taking into consideration matters of public health, while reducing the size of public gatherings and the need for travel, the Court orders as follows:

1. Effective immediately, any sentencing for which the presentence report calculates the bottom of the Guidelines range as 21 months' imprisonment or more, shall be continued to a date after May 1, 2020.

2. If a presentence report has not yet been prepared, any party can notify the court of an anticipated Guidelines range that is expected to be at least 21 months' imprisonment. Upon notification by defense counsel that the Guidelines range is expected to be at least 21 months' imprisonment, the sentencing shall be continued to a date after May 1, 2020. If the prosecutor notifies the court that the Guidelines range is expected to be at least 21 months' imprisonment, the defendant has one week to object to the prosecution's anticipated Guidelines range calculation or to the continuance to after May 1, 2020. If the defendant does not object, the sentencing shall be continued to after May 1, 2020. If the defendant objects, then the sentencing can proceed as originally scheduled.
3. This Order does not prevent parties from requesting continuances in other cases for sentencings with lower Guidelines ranges or for other settings.
4. Upon a party's motion showing good cause for sentencing prior to May 1, 2020, such as a defendant likely receiving a sentence of time served, any sentencing hearing continued by operation of this Order can be rescheduled prior to May 1, 2020.
5. Unless extended, this Order will remain in effect through May 1, 2020, and will then expire.
6. Any judge may exempt or opt out of this Order.

FOR THE COURT

So ORDERED and SIGNED this ²⁴ day of March, 2020.



ORLANDO L. GARCIA
Chief Judge