

FILED

Feb - 16 2021

Robert R. Carr
Clerk, U.S. District Court

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

In Re:

**COURT OPERATIONS RELATED
TO COVID-19**

**GENERAL ORDER
No. 21-02**

*** ***)

This Order is issued in a continuing response to the COVID-19 pandemic that persists within the counties comprising the Eastern District of Kentucky and throughout the country. Although Kentucky recently has seen a significant decline in the number of new COVID-19 cases, the positivity rate is presently at 6.57 percent, which exceeds the World Health Organization’s recommended rate for reopening of five percent or less for at least fourteen days.¹ Additionally, the Commonwealth has reported sixth highest rate of new cases per 100,000 individuals and the eighth highest rate of test positivity in the United States.² Seventy-nine of Kentucky’s 120 counties remain in considered critical “red zones,” which means that the average number of daily cases in those counties is 25 or more per 100,000 people.³ Official

¹ *Positivity Rate*, TEAM KENTUCKY, <https://govstatus.egov.com/kycovid19> (last accessed Feb. 16, 2021).

Which U.S. States Meet WHO Recommended Testing Criteria? JOHNS HOPKINS UNIVERSITY & MEDICINE CORONAVIRUS RESOURCE CENTER, (Updated Feb. 15, 2021 6:45 a.m.), <https://coronavirus.jhu.edu/testing/testing-positivity>

² WHITE HOUSE CORONAVIRUS TASK FORCE REPORTS FOR KENTUCKY, (Feb, 7, 2021), https://gscdn.govshare.site/381d0fbb43b611527a8f1c329301ef51fd555fcf/Kentucky_State_Profile_Report_20210207_Public.pdf

³ *Kentucky Coronavirus Monitoring*, TEAM KENTUCKY, (Updated Feb. 16, 2021 8:30 a.m.) <https://govstatus.egov.com/kycovid19>

recommendations for reducing the number of COVID-19 cases within red zones include rescheduling public events, avoiding non-essential activities outside the home, and avoiding gatherings of any size.⁴

Against this backdrop, nearly 556,000 persons in Kentucky have received at least one COVID-19 vaccination as of February 15, 2021.⁵ Vaccinations are being offered in phases—first to people who are more likely to have severe COVID-19 illness and to workers who are essential to the functioning of society.⁶ Various providers throughout the state are working to administer vaccinations in accordance with the statewide vaccination plan as doses become available.⁷ However, demand for the vaccine significantly exceeds the state’s current supply and it is unclear when all phases of vaccine distribution will be completed. (Phases include: **1A** for individuals in long-term care facilities, assisted living facilities, and health care personnel; **1B** for first responders, anyone age 70 or older, and K-12 school personnel; **1C** for anyone age 60 or older, anyone age 16 or older with CDC highest risk C19 risk complications,

⁴ *Red Zone Reduction Recommendations*, KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES, <https://chfs.ky.gov/agencies/dph/covid19/RedCountyRecommendation.pdf> (last accessed Feb. 15, 2021).

⁵ *COVID-19 Vaccine*, TEAM KENTUCKY, (Updated Feb 15, 2021), <https://govstatus.egov.com/ky-covid-vaccine>

⁶ *When Can I Get Vaccinated?*, TEAM KENTUCKY, <https://govstatus.egov.com/kentucky-vaccine-survey> (last accessed Feb. 15, 2021).

⁷ Conner Farrell, *Beshear: Kentucky ‘very close’ in moving to Phase 1C of Vaccination Plan*, WHAS 11, (Updated Feb. 13, 2021 1:24 p.m.), <https://www.whas11.com/article/news/health/coronavirus/vaccine/vaccine-update-in-louisville-beshear-international-day-broadbent-arena/417-12eca754-7589-430f-b52f-a693a36f2293>

and all essential workers; **2** for anyone age 40 or older; **3** for anyone age 16 or older; and **4** for children under the age of 16 if the vaccine is approved for this age group.)

Based on the foregoing, it is imperative that the Court continue observing precautions to limit large gatherings of persons and reduce the possibility of exposure to the virus and slow the spread of the disease, to the extent practical. Therefore, consistent with the actions taken by federal, state, and local entities,⁸ it is hereby

ORDERED as follows:

1. All courthouses in the district remain open for business. However, subject to the specific exceptions outlined in paragraph 2 below, civil and criminal trials scheduled to begin March 16, 2021 through May 16, 2021, before any district or magistrate judge in the Eastern District of Kentucky, are **CONTINUED GENERALLY**, subject to further orders of the Court. Trials previously scheduled during this period shall be rescheduled by separate order of the district or magistrate judge assigned to the matter.⁹

⁸ *Renewal of Determination that a Public Health Emergency Exists*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, (Jan. 7, 2021), <https://www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-07Jan2021.aspx>

Amended Order 2021-02, In re: Kentucky Court of Justice in Response to COVID-19 Emergency: Court Proceedings, SUPREME COURT OF KENTUCKY, (Jan. 6, 2021), <https://kycourts.gov/Courts/Supreme-Court/Supreme%20Court%20Orders/202102.pdf>

In Re: Seventh Supplemental Order Concerning Court Operations Related to COVID-19, General Order 21-03 UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY, (W.D. Ky. Jan. 15, 2021), https://www.kywd.uscourts.gov/sites/kywd/files/general-ordes/General_Order_2021-03_Seventh_Supp_Order_Re_Court_Operations.pdf

⁹ Any judge may, in his or her discretion, determine that the need to conduct a jury trial during this period outweighs the public health concerns addressed herein.

2. Criminal matters set before magistrate judges, such as initial appearances, arraignments, detention hearings, and the issuance of warrants, shall continue to take place in the ordinary course of business, subject to General Order 21-03, which authorizes the use of video conferencing and/or telephone conferencing under certain circumstances. Likewise, hearings set before district judges during the period identified in paragraph 1 shall proceed as scheduled, subject to intervening orders of the judge assigned to the matter.

3. Any matter involving an attorney or party who is ill or in a high-risk category may be rescheduled by the presiding judge. However, counsel shall be responsible for advising the presiding judge of such illness or high-risk by filing an appropriate notice or motion containing sufficient information to allow the presiding judge to make an informed decision regarding any cancelation or continuance.

4. Subject to intervening orders, Grand Juries will continue to meet as currently scheduled.

5. Regarding criminal trials set during the period identified in paragraph 1, based on public health recommendations and the severity of risk posed to the public¹⁰ the time period of the continuance caused by this General Order shall be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuance outweigh the best interests of the public and the defendant's right to a more speedy trial. 18 U.S.C. § 3161(h)(7)(A). Subject to intervening orders, the period of exclusion shall be from

¹⁰ *Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)*, CENTERS FOR DISEASE CONTROL AND PREVENTION, (Updated Jan. 4, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

March 16, 2021 to May 16, 2021. The district judge assigned to the matter may extend this period if circumstances warrant in a particular case.

The Court continues to recognize the right of criminal defendants to a speedy and public trial under the Sixth Amendment to the United States Constitution, and the particular application of that right in cases involving defendants who are detained pending trial. Therefore, in the event any affected party disagrees with the Court's analysis regarding the time excluded under the Speedy Trial Act, he or she may move for reconsideration in the individual case. Likewise, the government may seek reconsideration. Any motion for reconsideration shall be directed to the district judge assigned to the matter.

6. As noted in paragraph 1 above, the office of the Clerk of the Court shall remain open for business. Likewise, the United States Probation Office, and all other court services shall remain open, subject to intervening orders of the Court. The United States Bankruptcy Court for the Eastern District of Kentucky may impose such restrictions on hearings, meetings, and other matters as that court unit determines to be necessary and appropriate.

Dated: February 16, 2021.



A handwritten signature in black ink, appearing to read "Danny C. Reeves".

Danny C. Reeves, Chief Judge
United States District Court
Eastern District of Kentucky