

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
EASTERN DIVISION**

ELIZABETH JANE SINNER, WHITNEY  
OXENDAHL, CAROL SAWICKI, LOIS  
ALTENBURG, and NORTH DAKOTA  
VOTERS FIRST,

*Plaintiffs,*

v.

AL JAEGER, in his official capacity as  
Secretary of State of North Dakota,

*Defendant.*

Case No. 3:20-cv-00076

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY  
INJUNCTION**

**EXHIBIT 16**

D.N.D. Administrative Order issued April 20, 2020

**UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA**

In re: Court Operations Under the Exigent ) **ADMINISTRATIVE ORDER**  
Circumstances Created by COVID-19 )  
)

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WHEREAS, the President of the United States of America has declared a national emergency in response to COVID-19;

WHEREAS, the Governor of the State of North Dakota has declared a state of emergency to coordinate North Dakota's strategy to protect North Dakotans from COVID-19;

WHEREAS, the Centers of Disease Control and Prevention and other public health authorities have advised taking precautions to reduce the possibility of exposure to the virus and to slow the spread of disease;

NOW THEREFORE, in order to protect public health, and in order to reduce the size of public gatherings and reduce unnecessary travel, **IT IS HEREBY ORDERED**, that;

1. Beginning, Monday, **March 23, 2020**, the United States Courthouses in Bismarck, Fargo, Minot, and Grand Forks, North Dakota are closed to the public, except for scheduled appointments.
2. The following persons, including but not limited to federal employees and contractors, shall not enter any United States Courthouse in the District of North Dakota:
  - a. Persons who have traveled to any foreign or domestic areas impacted by COVID-19;
  - b. Persons who reside or have had close contact with someone who has traveled to any foreign or domestic area impacted by COVID-19 within the previous 14 days;
  - c. Persons who have been asked to self-quarantine or self-isolate by any doctor or other medical provider, hospital, or health agency if they are still within that time of self-quarantine or self-isolation;
  - d. Persons who have been diagnosed with, or who have any contact with, anyone who has been diagnosed with COVID-19 unless and until they have completed a quarantine or self-isolation period;
  - e. Persons with fever, cough, or shortness of breath, or are presently suffering from an elevated body temperature or chills.

Court Security Officers may question any courthouse visitor to determine whether they fall into any of these categories. Anyone attempting to enter in violation of these protocols will be denied entry by a Court Security Officer.

3. Effective immediately, all jury trials presently scheduled between **March 16, 2020** and **May 31, 2020**, in the District of North Dakota are continued. The Court may issue other orders concerning future continuances as necessary and appropriate.
4. All trial-specific deadlines in the afore-referenced criminal cases are continued. All trial-specific deadlines in civil cases remain. Due to the fluid nature of the outbreak and the need for flexibility in responding thereto, counsel may request modification to pleading-related and discovery-related deadlines as needed. Individual judges may continue trial-specific deadlines in civil cases in the exercise of their discretion.
5. Individual judges presiding over criminal proceedings may take such actions consistent with this order as may be lawful and appropriate to ensure the fairness of the proceedings and preserve the rights of the parties.
6. For criminal trials, the Court on its own motion finds that the time of the continuances implemented by this order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice are served by ordering the continuances and outweigh the best interests of the public and of the criminal defendants under 18 U.S.C. § 3161(h)(7)(A). Absent further order of the Court or any individual judges, the period of exclusion shall be from **March 16, 2020**, to **May 31, 2020**. The Court may extend the period of exclusion as circumstances may warrant.
7. All hearings, with the exception of those listed in paragraph 9, are suspended through **May 31, 2020**.
8. Pursuant to Section 15002(b)(1) of the CARES Act, H.R. 748, the Chief Judge authorizes the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, for all events listed in Section 15002(b) of the legislation:
  - (A) Detention Hearings under Section 3142 of title 18, United States Code.
  - (B) Initial Appearances under Rule 5 of the Federal Rules of Criminal Procedure.
  - (C) Preliminary Hearings under Rule 5.1 of the Federal Rules of Criminal Procedure.
  - (D) Waivers of Indictment under Rule 7(b) of the Federal Rules of Criminal Procedure.
  - (E) Arraignments under Rule 10 of the Federal Rules of Criminal Procedure.
  - (F) Probation and Supervised Release Revocation Proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure.
  - (G) Pretrial Release Revocation Proceedings under Section 3148 of title 18, United States Code.

- (H) Appearances under Rule 40 of the Federal Rules of Criminal Procedure.
- (I) Misdemeanor Pleas and Sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure.
- (J) Proceedings under chapter 403 of title 18, United States Code (commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

Pursuant to Section 15002(b)(2), the Chief Judge further specifically finds that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedures cannot be conducted in person in this district without seriously jeopardizing public health and safety. As a result, if a judge in an individual case finds, for specific reasons, that a felony plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice, the judge may, with the consent of the defendant after consultation with counsel, use video conferencing, or teleconferencing if video conferencing is not reasonably available, for the felony plea or sentencing in that case. Judges may also use this authority for equivalent events in juvenile cases as described in Section 15002(b)(2)(B).

Pursuant to Section 15002(b)(3) of the legislation, this authorization will remain in effect until **June 28, 2020**, unless terminated earlier. If emergency conditions continue to exist 90 days from the entry of this order, the Chief Judge will review this authorization and determine whether to extend it.

- 9. Criminal matters before magistrate judges, such as initial appearances, arraignments, detention hearings, and the issuance of search warrants, will continue to take place in the ordinary course.
- 10. Grand jury proceedings in this District presently scheduled through **May 31, 2020**, are continued. Due to the unavailability of a grand jury in the District, the 30-day time period for filing an indictment or information is hereby tolled as to each defendant during the time period between **March 4, 2020**, and **May 31, 2020**, pursuant to 18 U.S.C. §§ 3161(b) and 3161(h)(7)(A). The Court finds that the ends of justice served by taking such action outweigh the best interest of the public and any defendant’s right to a speedy trial. Therefore, the time periods between **March 4, 2020**, and **May 31, 2020**, are excluded under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A), and will not be considered in determining if an Indictment or Information is filed within the time limits as set forth in 18 U.S.C. § 3161(b).
- 11. The Clerk’s Office, Probation and Pretrial Services Office, and other Court services remain available. The Clerk’s Office will continue to be staffed by employees who are teleworking. Electronic filings may still be made through CM/ECF. Please consult the District Court’s Website at [www.ndd.uscourts.gov](http://www.ndd.uscourts.gov) for current information.
- 12. This order supercedes the Court’s Administrative Orders issued on March 27, 2020,

regarding Court Operations, and March 30, 2020, regarding Use of Video and Telephone Conferencing. The Court will vacate, amend, or extend this order no later than **May 31, 2020**.

Dated: April 20, 2020, at 8:00 a.m..

/s/ Peter D. Welte  
Peter D. Welte, Chief Judge  
United States District Court