

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

IN RE: COURT OPERATIONS UNDER THE
EXIGENT CIRCUMSTANCES CREATED BY
COVID-19 AND RELATED CORONAVIRUS

General Order No. 2020-39

GENERAL ORDER

This Order SUPPLEMENTS General Order 2020-05, General Order 2020-06, General Order 2020-07, General Order 2020-08, General Order 2020-10, General Order 2020-14B, General Order 2020-18, General Order 2020-20, General Order 2020-29, General Order 2020-32, and General Order 2020-35. To the extent this Order differs from those Orders, this Order supersedes and replaces those Orders.

IT IS HEREBY ORDERED that based on the information available to date, including the estimated number of persons infected currently with COVID-19 and the number of cases projected to occur in the immediate future, the Court REAFFIRMS the following findings made in General Order 2020-05:

1. The gatherings of people in close proximity to one another that occur during Court operations presents the potential for substantial health risks to the public;
2. Such risks may be significantly mitigated by temporarily modifying Court operations; and
3. Good cause exists to implement temporary changes to Court operations.

Therefore, it is hereby ORDERED that the authorization for use of video teleconferencing, or telephone conferencing if video conferencing is not reasonably available, for the instances described in General Order 2020-08 is **EXTENDED** from December 18, 2020 until **March 17, 2021**, in all of the Court's divisions:

1. In criminal proceedings:
 - a. The Northern District of Indiana courthouses opened to the public on July 6, 2020. However, since that re-opening, the Court has continued jury trials through January 29, 2021, in General Order 2020-32 issued on November 16, 2020; and closed the Clerk's Offices of the United States District Court to the public until January 29, 2021, in General Order 2020-35 issued on November 30, 2020. The State of Indiana website coronavirus.in.gov as of December 12, 2020, shows the

statewide positivity rate from 11/30/2020 until 12/6/2020 was 12.8%. The 7-day all tests positivity rate for Lake County was 17.86%, St Joseph County was 14.62%, Elkhart County was 19.01% and Allen County was 18.27%. All four of these counties report an increasing positivity rate. In addition, the web site reports there were 5961 new positive cases of COVID-19 statewide reported on December 12, 2020, with a moving average of 6269 cases per day. The web site also reports that currently 78% of Intensive Care Unit beds statewide are in use with 40.8% devoted to Covid-19 patients. The threat presented by COVID-19 and its spread remain very real concerns and continue to create exigent circumstances; therefore, the Chief Judge finds that felony pleas and felony sentencings cannot be conducted in person without seriously jeopardizing public health and safety. As such, the presiding judge should be given discretion in determining whether to conduct such matters in person.

- b. To the extent criminal proceedings may be conducted via phone or videoconference in accordance with General Order 2020-08 and Section 15002 of the CARES Act, in-person proceedings may be converted to telephonic or videoconference proceedings by the assigned District or Magistrate Judge after consultation with counsel. On a case-by-case basis and at the discretion of the assigned District or Magistrate Judge, criminal proceedings may be conducted in person after consultation with counsel and the United States Marshal Service.

General Orders 2020-07 and 2020-08 further address criminal proceedings held before the Magistrate Judges in light of the exigent circumstances created by the COVID-19 pandemic. The Chief Judge extends the authorization for use of video teleconferencing, or telephone conferencing if video conferencing is not reasonably available, for the instances described in General Order 2020-08 from December 18, 2020 until **March 17, 2021**.

IT IS FURTHER ORDERED that this Order is in effect until further order of the Court.

Dated this 16th day of December 2020.

/s/JON E. DEGUILIO
Jon E. DeGuilio, Chief Judge
United States District Court
Northern District of Indiana