

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:20-cr-0026
	)	
JAHVID ALEXANDER and	)	
JESTUS LARS FRANCIS,	)	
	)	
Defendants.	)	
	)	

ORDER

BEFORE THE COURT is the trial in this matter, currently scheduled for September 8, 2020. For the reasons stated herein, the time to try this case is extended up to and including January 11, 2021 under the Speedy Trial Act.

On March 17, 2020, the Chief Judge of the District Court of the Virgin Islands entered a general order responding to the COVID-19 pandemic. The Chief Judge noted that the pandemic had been declared a national emergency and a public health emergency by the President of the United States. The Chief Judge also noted that the Governor of the Virgin Islands had declared a state of emergency. The Chief Judge found it necessary to “take reasonable and prudent actions” “in order to further public health and safety, and the health and safety of Court personnel, counsel, litigants, other case participants, jurors, persons with other business at the courthouse, and the general public” *See Mar. 17, 2020, Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak, at 1-2 (Mar. 17, 2020)*, <https://www.vid.uscourts.gov/sites/vid/files/general-orde/CoronaVirusOperationsOrder.pdf>.

Among other precautionary measures, the Chief Judge continued all criminal trials scheduled from March 18, 2020, through April 16, 2020. The Chief Judge found that the ends of justice required excluding March 18, 2020, through April 16, 2020, from the Speedy Trial count in all criminal matters “in order to assure that there is a full, unhindered, continuously serving jury venire and seated jury in every case, which is central to the sound administration of justice.” *Id.* at 2-3.

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Since the Chief Judge entered the general order in March, the crisis in the U.S. Virgin Islands and the United States in general has intensified. On March 17, 2020, there were approximately 7,000 confirmed cases in the United States, two of which were in the U.S. Virgin Islands. As of the date of this Order, there are over 6,130,000 confirmed cases in the United States, 1144 of which are in the U.S. Virgin Islands. The virus has claimed over 186,000 lives in the United States and 15 in the U.S. Virgin Islands. The number of cases and deaths continues to rise rapidly.

Recognizing the gravity of the situation, Congress passed an unprecedented financial assistance package, the CARES Act, on March 27, 2020. The Act was signed into law by the President of the United States that same day. Among its many provisions, the CARES Act authorizes district courts to use teleconferencing to hold felony plea hearings and felony sentencing hearings under appropriate circumstances. *See* CARES Act, Pub. L. No. 116-136, § 15002(b)(2) (2020).

Moreover, recognizing the severity of the public health crisis presented by COVID-19, Virgin Islands Governor Albert Bryan declared a state of emergency for the Virgin Islands in March 2020. In a series of executive orders in March and April of 2020, Governor Bryan instituted a number of precautionary and preventative measures that significantly curtailed economic and local governmental operations. Over the next several months, the rate of new positive COVID-19 cases in the Virgin Islands decreased significantly. As a result, Governor Bryan loosened the previously ordered restrictions. However, beginning in July, the Virgin Islands began to see a dramatic uptick in new positive COVID-19 cases, a trend that continues to this date. On August 13, 2020, Governor Bryan issued an executive order effecting a return to all the previously imposed restrictions on economic and local governmental operations along with additional restrictions. Among other measures, Governor Bryan has ordered all nonessential businesses to close, all nonessential public workers to stay home, all establishments—with the exception of grocery and ‘big-box’ stores—to limit occupancy to no more than ten people, and all schools and churches to close. Some of these heightened

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restrictions will remain in place for at least 30 days.¹ Governor Bryan has emphasized that these measures are necessary to curtail the rapidly increasing spread of COVID-19 in the Virgin Islands.

In response to the increasing severity of the public health crisis, the Chief Judge has extended the general order several times since March, most recently continuing “all civil and criminal jury and bench trials scheduled before any judge or magistrate judge in either Division of the court [of the U.S. Virgin Islands], from September 1, 2020[,] through September 30, 2020, . . . pending further Order of the Court.” *Aug. 31, 2020, Tenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak*, at 5 (*Aug. 31, 2020*), <https://www.vid.uscourts.gov/sites/vid/files/general-orders/CoronaVirus>. Pursuant to the Speedy Trial Act, the period from September 1, 2020, to September 30, 2020, is “excluded time” for purposes of determining when a trial must begin. *Id.* at 6; 18 U.S.C. § 3161(h)(7)(A).²

The Court specifically finds that further extending this period for cases in St. Thomas is in the best interest of justice because COVID-19 has disproportionately impacted the residents of this island. As of September 2, there were 1144 confirmed cases of COVID-19 in the U.S. Virgin Islands, 684 of which were on St. Thomas. Additionally, ten of the fifteen COVID-related fatalities in the U.S. Virgin Islands occurred on St. Thomas. For the health and safety of the residents and to avoid overwhelming the healthcare system, it is essential to take action to slow the spread of the virus. Social distancing—specifically avoiding gatherings of more than 10 people and maintaining a distance of at least 6 feet from others—

¹ Several of these heightened restrictions were due to expire on August 31, 2020. On August 28, 2020, Governor Bryan issued an executive order further extending those restrictions to September 8, 2020.

² Any delay that results from a continuance granted by a judge on his own motion is “excluded” from the computation of time when the Court specifically finds that “the ends of justice served by taking such action materially outweigh the best interests of the public and any defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A).

Additionally, Defendant Alexander filed two motions, ECF Nos. 40 and 41, on August 11, 2020. The pretrial delay resulting from these pretrial motions is also excluded pursuant to the Speedy Trial Act. 18 U.S.C. § 3161(h)(1)(D) (“The following period[] of delay shall be excluded in computing the time within which . . . the trial of any such offense must commence: Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion.”).

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is the most effective check against the COVID-19's transmission. This is a multi-defendant case that presents significant challenges for the court to comply with social distancing guidelines during the jury trial. Practical considerations would require additional spacing for defendants, counsel, and jurors—and the potential for additional jurors in the courtroom. Given the increasingly dire circumstances faced by our community, the U.S. Virgin Islands, and the United States as a whole, the Court finds that a greater extension of time beyond September 30 is necessary for the protection and well-being of the defendants, the jury, the prosecutors, the witnesses, the Court's personnel, and the general public at large.

The premises considered, it is hereby

ORDERED that the time beginning from the date of this order granting an extension through January 11, 2021, shall be excluded in computing the time within which the trial in this matter must be initiated pursuant to 18 U.S.C. § 3161(h)(7)(A); and it is further

ORDERED that the trial in this matter previously scheduled for September 8, 2020, is **RESCHEDULED** to commence promptly at 9:00 A.M. on January 11, 2021, in St. Thomas Courtroom 1 before District Judge Robert A. Molloy.

Dated: September 3, 2020

/s/ Robert A. Molloy
ROBERT A. MOLLOY
District Judge