

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

In the matter of

EXPEDITED DETENTION
HEARING PROCEDURES
EFFECTIVE APRIL 7, 2020

**MISCELLANEOUS
GENERAL ORDER 20-12**

This Miscellaneous General Order governs the procedure for motions for release of pretrial and presentence defendants based on the coronavirus disease (COVID-19) pandemic. On March 30, 2020, the Court issued Miscellaneous General Order 20-11 concerning changes to Court operations and deadlines during the COVID-19 pandemic. For the purpose of this Order, the Court incorporates the findings made in Miscellaneous General Order 20-11 related to the impact of COVID-19 on the public and court operations.

Concerns regarding COVID-19 outbreaks in detention centers and correctional facilities across the nation have generated voluminous filings regarding the pretrial and presentence release of criminal defendants. The Court anticipates that many defendants in criminal cases pending in the District of Alaska will file motions for pretrial or presentence release based on the ongoing pandemic. To promote judicial economy in such matters, this Order supplements District of Alaska Local Criminal Rule 46.1 and shall remain in effect until May 1, 2020, unless otherwise ordered by the Court.

The following procedure shall govern motions for release of pretrial and presentence defendants concerning the COVID-19 pandemic:

- (a) Prior to filing any motion, counsel for the Government and the defendant must:
 - (1) Confer with one another to determine whether they agree on the defendant's detention or request for release and the conditions of release; and
 - (2) Notify United States Probation and Pretrial Services as to the defendant's proposed release plan to allow the Officer to begin an immediate investigation.
 - (3) If the release plan includes release to a third party, the defendant shall file a complete third-party custodian application.

(4) If the defendant intends to rely on a medical condition in support of their motion and does not have such medical documentation, he or she shall submit an unopposed motion on shortened time and under seal for an order disclosing medical information. This motion shall include a proposed order with the following information:

- a. Name and date of birth of the defendant;
- b. The identity of the entity that is believed to have such records; and
- c. The pertinent date range for the records.

The Court shall authorize these orders on an expedited basis and the defendant shall obtain and file the records as soon as possible. Filings of confidential medical information may be made under seal and no motion for permission to file under seal is required for this documentation.

(b) Motions for release based on the COVID-19 pandemic shall:

- (1) Be made on expedited basis. The defendant need not file a separate motion for expedited consideration. Instead, defendant shall include a request for expedited consideration in their motion for release. The defendant must advise the assigned judge's chambers via email that such a request has been filed.
- (2) Address the relevant factors under 18 U.S.C. § 3142.
- (3) Identify any medical conditions that make the defendant more susceptible to contracting COVID-19 or that may be exacerbated as a result of contracting COVID-19. The defendant shall attach documentation of these medical conditions under seal from a correctional institution, health care provider, or probation report. Filings of confidential medical information may be made under seal and no motion for permission to file under seal is required for this documentation.

If no medical documentation is available, or if the defendant declines to seek an order for production of medical documentation, the defendant shall so state. In lieu of or in addition to medical documentation, defendants may submit affidavits, declarations, or other evidence to support their claims.

- (4) Identify the release plan as specifically as possible.
- (5) Whether the movant intends to consent to appearing by videoconference or telephone conference should a hearing on the motion be held.
- (c) Unless otherwise ordered by the Court, the Government shall have two business days from the motion being filed to file its response. The Government shall state its position as to whether or not it supports or opposes the movant's release, and the reasons therefore.
- (d) No replies to responses are permitted, unless otherwise ordered by the Court.
- (e) Unless otherwise ordered by the Court, Pretrial Services will file a memorandum with the Court and the parties at least two business days before the bail hearing outlining its recommendations on the bail review.
- (f) The Court shall review the motion and any filed medical documentation, the response, and Pretrial Service's recommendation, and determine whether to calendar a hearing. This hearing will be held as soon as practicable. Pursuant to Miscellaneous General Order 20-11, such hearings shall be conducted by video conferencing, or telephone conferencing if video conferencing is not reasonably available for use.

DATED this 7th day of April, 2020

/s/ Timothy M. Burgess
Hon. Timothy M. Burgess
Chief United States District Judge

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