

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	
	:	
EXTENSION OF TIME FOR	:	STANDING ORDER
ADMINISTRATIVE AND CIVIL	:	
FORFEITURE PROCEEDINGS	:	

On March 13, 2020, the President of the United States declared a national emergency, effective as of March 1, 2020, due to the Novel Coronavirus Disease (COVID-19) pandemic. On March 29, 2020, the President extended the period of recommended social distancing and non-essential activity through the end of April.

In the interest of public health and safety, the Court has taken significant steps to limit operations due to the exigent circumstances created by the ongoing COVID-19 pandemic. The Court has issued a series of Standing Orders that continue all civil and criminal jury trials and certain other court proceedings and events; direct impaneled grand juries not to meet; restrict access to courthouses, Court locations, and Court offices in the Eastern District of Pennsylvania; and make adjustments to the operations of the Clerk’s Office and the use of the Case Management/Electronic Case Filing (CM/ECF) system and strongly discourage paper filings through May 31, 2020.

Since the first Standing Order was issued on March 13, 2020, the number of confirmed cases of COVID-19 in this district has increased substantially to more than 33,000. Additional measures have been implemented at the Federal, State, and local levels to slow the spread of COVID-19 by minimizing person-to-person contacts. The President has issued guidelines recommending that people not gather in groups of more than ten. The Governor of the Commonwealth of Pennsylvania and the Secretary of Health for the Commonwealth have ordered

all individuals residing in the Commonwealth to stay at home, except as needed to access, support, or provide life sustaining business, emergency, or government services, through May 8, 2020, and all Pennsylvania schools have been closed through the end of the current academic year. A similar stay-at-home order is in place indefinitely in the City of Philadelphia, where the Mayor and the Health Commissioner have also prohibited all public and private gatherings of any number of people occurring outside a single household or living unit. The Centers for Disease Control and Prevention (CDC) and State and local public health authorities have issued guidance recommending that people stay at home as much as possible, refrain from gathering in groups, limit close contact with individuals outside their households, avoid using any kind of public transportation, ridesharing, or taxis, and refrain from non-essential travel. Public health authorities continue to stress the importance of social or physical distancing (i.e., keeping space between oneself and others) for all people, especially those at higher risk for severe illness from COVID-19, including older adults and people of any age who have serious underlying medical conditions.

To allow federal employees to engage in social distancing to slow the spread of the virus, on March 15, 2020, the Attorney General of the United States implemented a “maximum telework” policy, which includes all Department of Justice law enforcement components. Similar orders were issued by the Departments of Homeland Security and Treasury. As a result, virtually all asset forfeiture personnel working in the headquarters facilities of the agencies in and around Washington, DC are teleworking, as are the overwhelming majority of the attorneys and staff at the U.S. Attorney’s Office in this district.

The COVID-19 disease has continued to spread, and it is becoming increasingly difficult for government agencies to carry out their responsibilities for processing thousands of pieces of

time-sensitive mail; providing timely, direct written notice to thousands of potential claimants; and making the necessary referrals to the U.S. Attorney's Offices across the country.

The government agencies with administrative forfeiture authority (collectively, the Agencies) include the Drug Enforcement Administration (DEA); the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF); Customs and Border Protection (CBP), which is also responsible for processing seizures by Immigration and Customs Enforcement/Homeland Security Investigations (HSI) and U.S. Border Patrol; the U.S. Secret Service (USSS); Internal Revenue Service – Criminal Investigation (IRS-CI); and the United States Postal Service (USPS). On an annual basis, the Agencies initiate and process tens of thousands of administrative forfeitures. Those efforts generate massive amounts of paperwork, and require regular, close physical interaction among office personnel in each Agency's headquarters office to prepare notice letters, correction letters, denial letters, the mailing envelopes for all of those letters, and the preparation of notice by publication for each targeted asset on the government's dedicated forfeiture website (www.forfeiture.gov).

In addition, Agency employees and contractors physically handle large volumes of mail from the public on a daily basis, including hand-written letters, claims, petitions for remission or mitigation, and requests for reconsideration. Although the seizing Agencies are capable of processing claims and petitions submitted electronically, the overwhelming majority of all submissions (approximately 85%) still come through the mail. The submission of timely administrative claims requires the Agencies to refer those matters to the U.S. Attorney's Offices across the country, and triggers separate deadlines relating to the filing of judicial forfeiture actions in the district courts.

The Court finds that the working conditions described above are inconsistent with the social distancing guidelines of the CDC and other health and public safety officials, the government's own guidelines for workplace safety, and the explicit requirements of the mandatory declarations of state and local governments in the Eastern District of Pennsylvania.

Pursuant to 18 U.S.C. § 983, the government is required to (1) commence administrative forfeiture proceedings against seized property by the Agencies sending notice of the forfeiture proceedings to potential claimants, which is generally done by certified or first class mail, within 60 days for federal seizures and 90 days for adopted seizures (those initially made by a state or local law enforcement agency); and (2) commence civil judicial forfeiture actions or obtain indictments seeking forfeiture of seized property following submission of timely administrative claims in such proceedings within 90 days of the Agencies' receipt of the claims. Pursuant to 18 U.S.C. § 983(a)(1)(B), a "supervisory official in the headquarters office of the seizing agency may extend the period for sending notice" of an administrative forfeiture action to interested parties for a period not to exceed 30 days "only if there is reason to believe that sending notice may have an adverse result," which includes endangering the life or physical safety of an individual. Upon motion by the government, "a court may extend the period for [the Agency] sending notice . . . for a period not to exceed 60 days, which period may be further extended by the court for 60-day periods, as necessary," based on the presence of any of the conditions described in 18 U.S.C. § 983(a)(1)(D). 18 U.S.C. § 983(a)(1)(C). Further, "a court in the district in which the [civil forfeiture] complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties." 18 U.S.C. § 983(a)(3)(A).

In light of the COVID-19 pandemic, the Agencies' compliance with the 60- and 90-day statutory deadlines for commencing administrative forfeiture with respect to federal and adoptive

seizures, respectively, is likely to endanger the life or physical safety of the government employees and contractors responsible for carrying out the duties of the Agencies' administrative forfeiture programs, as described at 18 U.S.C. § 983(a)(1)(A)(i), justifying the extension of those deadlines pursuant to 18 U.S.C. § 983(a)(1)(C). Specifically, the ongoing national emergency triggered by the pandemic, and the resulting need for social distancing and heightened controls on physical contact with objects that may present a risk of contamination, constitute good cause for a finding that requiring the noticing of seizures and referral of claims may endanger the life or health of the government asset forfeiture attorneys and staff (at both the Agencies and the U.S. Attorney's Offices) responsible for reviewing cases, issuing notices, and processing submitted claims and petitions. All of these factors support and establish good cause for an order pursuant to § 983(a)(1)(C) and (3)(A) granting the 60-day blanket extensions described herein.

WHEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. For all federal seizures of property that occurred or will occur in the Eastern District of Pennsylvania between February 21, 2020, and April 30, 2020, the deadline established by 18 U.S.C. § 983(a)(1)(A)(i) for the seizing Agency to commence administrative forfeiture proceedings against such property shall be and hereby is extended for a period of 60 days.

2. For all seizures of property by state or local law enforcement agencies in the Eastern District of Pennsylvania between January 21, 2020, and April 30, 2020, which seizures are thereafter adopted by one of the Agencies, the deadline established by 18 U.S.C. § 983(a)(1)(A)(iv) for the adopting Agency to commence administrative forfeiture proceedings against such property shall be and hereby is extended for a period of 60 days.

3. To the extent that any Agency executed a 30-day extension of any administrative notice deadline pursuant to 18 U.S.C. § 983(a)(1)(B), on or before April 21, 2020, the deadline for the sending of the required notice is extended for 60 days from the current deadline.

4. The 90-day deadline established at 18 U.S.C. § 983(a)(3)(A) for the filing of a civil forfeiture complaint or inclusion of an asset in a criminal indictment, in which the Eastern District of Pennsylvania has venue, following an Agency's receipt of a timely administrative claim between January 21, 2020, and April 30, 2020, is hereby extended to 150 days instead of the statutory 90-day period.

5. Any motion by a claimant seeking an exception to this Standing Order shall be referred to the Chief Judge.

6. In accordance with the provisions of 18 U.S.C. § 983(a)(1)(C), further extensions of no more than 60 days each may be granted as necessary, upon an appropriate showing.

IT IS SO ORDERED.

/s/ Juan R. Sánchez
Juan R. Sánchez
Chief Judge

Date: April 30, 2020