UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CRIMINAL CASE STANDING ORDER RE: PROCEDURE FOR REVIEW OF DETENTION ORDERS IN LIGHT OF CORONAVIRUS PANDEMIC

STANDING ORDER FOR MAGISTRATE JUDGE NANCY J. KOPPE

The undersigned issues this standing order in response to the coronavirus pandemic. This order applies to every open criminal case in which the undersigned ordered a Defendant to be detained and that Defendant remains in custody awaiting trial. It further applies to any such situated Defendant in a criminal case assigned to the undersigned who was detained by a now-retired magistrate judge. This order does not apply to any other Defendant. A copy of this order will be provided to the offices of the Federal Public Defender, the United States Attorney, the CJA attorney coordinator, and United States Pretrial Services, as well as being posted publicly on the Court website.

Under the Bail Reform Act, 18 U.S.C. § 3145(f)(2), a detention hearing may be reopened at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the detention hearing and that has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community. Two of the detention or release factors (among others) are (1) the person's "physical and mental condition" (§ 3145(g)(3)(A)), and (2) the nature and seriousness of the danger to any person or the community that would be posed by the person's release (§ 3145(g)(4)). Additionally, a detained defendant can request temporary release if compelling reasons exist, pursuant to 18 U.S.C. § 3145(i).

The Crime Victims' Rights Act, 18 U.S.C. § 3771, provides crime victims the statutory right to be reasonably protected from the Defendant, to reasonable notice of any public Court proceeding involving the crime or release of the Defendant, the right to be reasonably heard and not excluded from public court proceedings, the right to be treated with fairness and respect, the

right to confer with the attorney for the Government in the case, the right to proceedings free from unreasonable delay, and the right to be informed of the rights under the Act. The Court must ensure the crime victim is afforded the rights described in the Act. 18 U.S.C. § 3771(b)(1).

This standing order establishes the procedure for any request to reopen a detention hearing on the basis of the physical and mental condition of the accused that is filed in the cases identified above, or for any request for temporary release due to compelling reasons for such release. Those procedures will be as follows:

1. Counsel for the Government and the Defendant must first meet and confer, either by video conference or telephonically, to determine whether to stipulate to reopening the detention hearing or for temporary release. This conference must comply with all aspects of Local Rule IA 1-3(f), must include thorough and meaningful discussion, and must include good faith participation by counsel.
2. The Government must provide notice and an opportunity to confer and be reasonably heard to any crime victim.
3. If a stipulation to reopen detention or for temporary release is reached, the stipulation must be filed in the CM/ECF system. Any such stipulation must provide meaningful factual discussion and analysis specific to the moving Defendant. A copy must be provided to Pretrial Services concurrently with the filing of the stipulation. The stipulation must state whether the Defendant agrees to waive his or her appearance at any hearing the Court may set on the stipulation or if he or she consents to be present by videoconference. Upon receipt of the stipulation, the Court may set a hearing.
4. If the parties do not reach a stipulation, a motion to reopen or for temporary release may then be filed. Any such motion must be filed on the CM/ECF system. Form-based motion practice will not be allowed. Any such motion must provide meaningful factual discussion and analysis specific to the moving Defendant with any necessary proof attached. A copy must be provided to Pretrial Services concurrently with the filing of the motion. Any such motion must include a declaration describing the meet and confer efforts taken by the parties. The motion must state if the moving Defendant agrees to

waive his or her appearance at any hearing set by the Court on the motion or if he or she consents to be present by videoconference.

5. Once a motion to reopen detention or for temporary release is filed, the Government has four days to respond. Once a response is filed, the movant has two days to reply.

IT IS SO ORDERED.

Dated: March 25, 2020

Nancy J. Koppe
United States Magistrate Judge