

ENTERED

APR 27 2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

David J. Bradley, Clerk of Court

IN RE: MATTER OF CERTAIN §
ADMINISTRATIVE AND CIVIL §
FORFEITURE PROCEEDINGS §

By Deputy Clerk 

GENERAL ORDER NO. 2020-07

**ORDER EXTENDING CERTAIN STATUTORY DEADLINES FOR ADMINISTRATIVE
AND CIVIL JUDICIAL ASSET FORFEITURE PROCEEDINGS**

The United States has applied, pursuant to 18 U.S.C. § 983, for an order granting a 60-day blanket extension of the statutory deadlines by which the government is required to (1) commence administrative forfeiture proceedings against seized property; and (2) commence civil judicial forfeiture actions following submission of timely administrative claims in such proceedings. Good cause appearing therefore, and for the reasons stated below, the government's application is GRANTED.

On March 13, 2020, President Trump declared a national emergency, effective as of March 1, 2020, due to the Novel Coronavirus Disease ("COVID-19") pandemic.¹ As noted in Houston's Special Order 2020-6 entered March 17, 2020, as well as similar orders in each Division of the Southern District of Texas, "[t]he Centers for Disease Control and Prevention ('CDC') and other public health authorities have advised the taking of precautions to reduce the possibility of exposure to the virus and slow the spread of the disease." To slow the spread of the virus, the Departments of Justice, Homeland Security, and Treasury implemented a "maximum telework" policy on or about March 15, 2020. As a result, virtually all asset forfeiture personnel working in the Washington D.C.-area headquarters facilities of the Agencies are teleworking, as are most of the attorneys and staff at the U.S. Attorney's Office in this district.

It is becoming increasingly difficult, and soon may be impossible, for the agencies to carry out their responsibilities for processing thousands of pieces of time-sensitive mail, providing

¹ On March 29, 2020, the President extended the period of recommended social distancing and non-essential activity through the end of April.

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

On an annual basis, the government agencies with administrative forfeiture authority 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. In addition, agency employees and contractors physically handle large volumes of mail from the public daily, including hand-written letters, claims, petitions for remission or mitigation, and requests for reconsideration. The submission of timely administrative claims requires the Agencies to refer those matters to the U.S. Attorney's Offices across the country, and trigger separate 90-day deadlines relating to the filing of judicial forfeiture actions in the district courts. The government has requested a blanket 60-day extension of those 90-day filing deadlines as well.

The court finds that the working conditions described in the government's application 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 mandatory declarations of state and local governments in the Southern District of Texas.

The government forfeiture agencies have certified to the court that in light of the COVID-19 pandemic, their 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 agency 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). 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. These factors support an order pursuant to § 983(a)(1)(C) and (3)(A) granting the 60-day blanket extensions described herein.

WHEREFORE, IT IS ORDERED that (1) for all federal seizures of property that occurred or will occur in the Southern District of Texas between February 3, 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 Southern District of Texas between January 3, 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; and (3) 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 the Southern District of Texas following an agency's receipt of a timely administrative claim between February 3, 2020, and April 30, 2020, is hereby extended to 150 days instead of the statutory 90-day period. 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 March 31, 2020, the deadline for the sending of the required notice is extended for 60 days from the current deadline. 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.

ORDERED this 27th day of April 2020.



LEE H. ROSENTHAL
CHIEF JUDGE