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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

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| INTERIM ADMINISTRATIVE ORDER CONCERNING ELECTRONIC IMAGING, ACCESS AND FILING IN CRIMINAL CASE FILES. | ) ) ) ) | Misc. No. M1-38<br><br>ORDER |

Pursuant to LR 5.1(d) and LCrR 1.1(b), this Order shall, on an interim basis, govern the policies and procedures in this district for the maintenance of electronic criminal case files, electronic imaging of documents filed in criminal cases, access to electronic criminal case files, and electronic filing in criminal cases.

1. Electronic Files and Filings.

As soon as practicable, the Clerk of Court shall electronically scan all criminal filings, maintain an electronic file (RACER) and receive documents by electronic transmission for filing in all criminal case files, including cases seeking relief under 28 U.S.C. § 2255, except cases in the magistrate and miscellaneous dockets, and the documents described in paragraph 2.

2. Documents Not to Be Electronically Imaged, Maintained in the Electronic Criminal Case File, or Electronically Filed.

The following documents shall not, except as noted below or upon separate order of the Court, be electronically imaged,

maintained in the electronic criminal case file, or electronically filed.

a. All documents preceding the indictment, including a complaint and affidavit in support thereof.

b. Arrest warrants, financial affidavits, requests for and orders concerning the issuance of subpoenas, requests for and orders concerning writs of habeas corpus ad testificandum and ad prosequendum, and motions by defendants for investigative, expert or other services under the Criminal Justice Act (18 U.S.C. § 3006A(e)).

c. Any ex parte request, order or other document which under present procedures would not be filed in the public file or would be filed under seal.

d. Motions under Federal Rule of Criminal Procedure 35 seeking a correction or reduction in sentence, and any other motion, regardless of how denominated, which seeks a reduction in sentence.

e. Trial exhibits and transcripts, except as attached to or an exhibit to a motion or brief.

f. A report of a medical or mental evaluation of a defendant. A motion or request for a medical or mental evaluation will be part of the electronic file unless the movant makes the request or motion under seal. An order for a medical or mental evaluation will be part of the electronic file unless the Court orders otherwise.

g. Filings greater than 200 pages in length.

h. Filings made under seal by a party or the Court.

i. Any other document as ordered by the Court.

Verified documents such as affidavits may be filed electronically. An original paper version of all verified documents bearing the original signature and verification shall be maintained by the filer during the pendency of the case and filed if ordered by the Court or requested by another party.

Documents which are not electronically imaged or maintained in the electronic criminal case file will be filed and maintained by the Clerk of Court in accordance with the policies and procedures existing prior to the date of this Order.

3. Access to Electronic Criminal Case Files.

The Court is informed that the Judicial Conference of the United States is actively developing a policy concerning public access to electronic case files. Until such a policy is adopted and further consideration to the issue is given by this Court, access to electronic criminal case files is limited to the Court, the United States Attorney, and the Federal Defender. Public access to the Court file will continue to be as it is now.

4. Official Criminal Case Files.

The official court file shall continue to be the hard copy paper file currently maintained by the Clerk of Court. Once imaged, the original (or, in the case of an electronically filed document, a copy printed by the Clerk) of all filings in the electronic criminal case file will be maintained in paper format

and made accessible to members of the public in conformity with the current policies and practices of this district.

5. Electronic Filing.

An electronic filing made in conformity with this Interim Administrative Order is a filing with the Court as defined in Federal Rule of Criminal Procedure 19(d) and Federal Rule of Civil Procedure 5(e). Electronic filing is at the option of the filer of the document.

6. Use of the Electronic Filing Option.

Use of electronic filing will be allowed on a staged basis. Initially, the Court, the United States Attorney, and the Federal Defender will be permitted to electronically file. At an appropriate time after a level of experience has been achieved other counsel of record will be allowed to use the electronic filing option. When allowed, attorneys other than government attorneys wishing to use the electronic filing option first must register in the Electronic Filing System (EFS) by obtaining a password and login name, obtain an account for the payment of fees, and register with the Clerk of Court to receive facsimile noticing of court orders and judgments. Information on how to register, the fees charged to electronically file documents, and how to set up an account for the payment of fees may be obtained from the Clerk of

Court and also is posted on the Court's website at www.iasd.uscourts.gov.

7. Form of Electronic Filings.

Electronic filings shall conform with LR 10.1 to the extent possible using an electronic medium, except that LR 10.1(e) and (g) pertaining respectively to copies and return of file-stamped copies by mail shall not apply to electronic filings.

8. Signing of Electronic Filings/Digital Certification by Clerk.

All electronically-filed documents shall have the name of the filer stated in a signature block. A filer's login name and password is the signature of the filer for the purposes of LR 11.1 and the applicable Federal Rules of Civil, Criminal and Appellate Procedure. All electronic filings are presumed to have been made by the person or party whose login name and password have been used to make the electronic filing. No attorney knowingly shall permit or cause to permit his or her password to be utilized by anyone other than an authorized employee. No person knowingly shall utilize or cause another person to utilize the password of a registered attorney unless such person is an authorized employee. The Court must be promptly advised if a password has been lost, misappropriated, or misused. If the Court determines that a password has been lost, misappropriated, or misused, the Court may

cancel the password or not allow the responsible person to participate further in the EFS.

The Clerk of Court may certify documents by digital signature and seal.

9. Electronic Service of Electronically Filed Documents.

Electronic service of court orders and judgments will be by facsimile transmission. Electronic service of documents filed electronically will be by electronic notice to the recipient's electronic mailbox established as part of the EFS. Registration by a person in the EFS shall constitute a request for, and consent to, electronic service of court orders and judgments, and documents electronically filed by other parties. When a document is electronically filed it will be served by facsimile transmission or electronic notice through the court EFS on all persons appearing for any party who are EFS registrants. No other service on such persons is required. Electronic service by these means shall be the equivalent of service of the document by first class mail, postage prepaid. Facsimile transmission or arrival in the filer's electronic mailbox completes service. The three-day mailing rule in LCrR 47.1(a) applies to electronically served documents in criminal cases. Filers are responsible for serving persons who are not participants in the EFS in the manner required by Federal Rule

of Civil Procedure 5, Federal Rule of Criminal Procedure 49(b) and LR 5.1(a). The certificate of service or other proof of service for an electronically filed document must specify the manner of service as required by LR 5.1(a).

10. Time of Day Electronic Filings Can Be Made/File-Stamped.

Unless a Local Rule provides otherwise, or the presiding judicial officer orders otherwise, an electronic filing can be made at any time of day or night, on holidays and weekends. Each electronic filing will receive an electronic file-stamp which records the date and time of the filing. The date recorded on an electronic file-stamp will be the official filing date of the document. As it is foreseeable that, from time to time, the EFS will not operate properly, parties are strongly encouraged not to wait until the last moment to electronically file documents.

11. Technical Failures.

If a filer is unable to meet a nonjurisdictional filing deadline because of a technical failure, the filer shall, by the earliest available means, file the document accompanied by an affidavit showing cause for failure to meet the deadline. The presiding judicial officer will determine on a case-by-case basis if the failure will be excused. Some deadlines in the Federal Rules of Criminal and Appellate Procedure are jurisdictional. It

is the responsibility of the filer to ensure, by whatever means necessary, that a document is timely filed to comply with jurisdictional deadlines.

12. The Docket.

The Clerk of Court will continue to make all docket entries. The Clerk will review all electronic filings for this purpose.

IT IS SO ORDERED.

Dated this 9th day of July, 2001.

RONALD E. LONGSTAFF, Chief Judge
United States District Court
Southern District of Iowa