

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

FEB - 8 2011

**IN THE MATTER OF
JUDICIAL EMERGENCY
IN THE DISTRICT OF ARIZONA.**

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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]*
DEPUTY CLERK

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CONCURRENCE WITH AND SUPPORT OF DISTRICT OF ARIZONA

Before the Court, and attached hereto, is a copy of the Order of January 20, 2011, of the Honorable Roslyn Silver, Chief Judge of the District of Arizona.

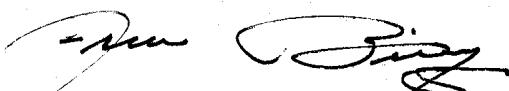
The Western District of Texas, with eleven active district judges, faces similar challenges with ever growing law enforcement and prosecution resources, but no additional judicial resources to uphold the Rule of Law. In 2010, the eleven active judges of the Western District of Texas, spread over 90,000 square miles, had 8,738 felony defendants and 3,080 civil cases added to their dockets, a weighted average caseload of 754 compared with the national average of 490 cases per judge, a ratio not unlike other border courts.¹

While it is not yet necessary to declare a judicial emergency in the Western District of Texas, that option approaches on the horizon with all of the additional costs of housing prisoners and delay in the resolution of civil cases.

Accordingly, the Western District of Texas expresses its concurrence with and support of the District of Arizona and the hope that the Executive and Legislative Branches of our government will provide the resources to the Judicial Branch necessary to accomplish its work and uphold Constitutional principles which all three branches have pledged to preserve, protect and defend.

SIGNED this 8th day of February, 2011.

FOR THE COURT



FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE

¹ Federal Court Management Statistics (U.S. District Court-2010 Judicial Caseload Profile Report)

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JAN 21, 2011

CLERK US DISTRICT COURT
DISTRICT OF ARIZONA
BY /s/ D. Lucas DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

**DECLARATION OF JUDICIAL
EMERGENCY UNDER THE SPEEDY
TRIAL ACT**

GENERAL ORDER NO. 11-01

This written order memorializes the oral order issued on January 20, 2011. Chief Judge Silver of the District of Arizona hereby declares a judicial emergency pursuant to 18 U.S.C. § 3174(e), and suspends, for 30 days, the time limits set forth in 18 U.S.C. § 3161(b) of the Speedy Trial Act. The suspension commenced January 20, 2011 and will terminate on February 19, 2011, and applies to cases in which the indictment or information is filed during this time period. During the suspension, the time limit from indictment to trial may not exceed 180 days. 18 U.S.C. § 3174(b). The suspension does not affect the 30-day time limit from arrest to indictment, nor does it affect the time limits for defendants in custody solely because they are awaiting trial. Id.

The need to suspend the time limits is of great urgency due to a heavy criminal caseload, a lack of adequate resources, and the tragic death of Chief Judge John Roll on January 8, 2011. The District of Arizona ranks first in the Ninth Circuit and third in the nation for criminal case and defendant filings, an increase of 65% since 2008. During this

1 same time period, the Tucson criminal division of the United States Attorney's Office for the
2 District of Arizona has doubled in size, adding AUSAs to prosecute border crimes. There
3 has been no corresponding increase in judgeships or other judicial resources.

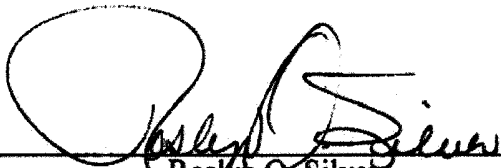
4 Presently, there are only three active district judges in Tucson, each assigned 1200
5 criminal cases that require holding a large number of trials each month. Further, there are
6 two district court vacancies in Tucson, and one in Phoenix.

7 In creating the emergency provision of the Speedy Trial Act, Congress recognized
8 district courts may be unable "to effectively implement the standards of [the Speedy Trial
9 Act]" due to limited manpower or resources. See 120 Cong. Record 41773, 41775 (1974).
10 The death of a judge may also constitute an emergency. Id. As a result, the District of
11 Arizona will operate under the emergency procedures of 18 U.S.C. § 3174(e) for 30 days,
12 and has applied to the Ninth Circuit Judicial Council to extend the suspension for one year.

13 **IT IS SO ORDERED**

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15 DATED this 21st day of January, 2011.

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Roslyn O. Silver
Chief United States District Judge