

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: COURT OPERATIONS UNDER : STANDING ORDER 2020-19
THE EXIGENT CIRCUMSTANCES :
CREATED BY COVID-19 WITH :
RESPECT TO TELECONFERENCES :
AND VIDEOCONFERENCES FOR :
CRIMINAL PROCEEDINGS :

STANDING ORDER

On March 30, 2020, then Chief Judge Conner issued Standing Order 2020-08, which implemented authorizations provided within the CARES Act, H.R. 748, Section 15002 et seq. Specifically, the CARES Act authorizes courts to use video and telephone conferences for various pretrial events if the Judicial Conference finds – as it did – that the COVID-19 emergency materially affects the functioning of the federal courts generally, and the chief judge of the district “authorized the use of video teleconferencing, or telephone conferencing if videoconferencing is not reasonably available.” § 15002(b)(1). Judge Conner also found that the CARES Act authorizes the Court to use video and telephone conferences for felony pleas and sentencings if the Judicial Conference makes the finding mentioned above and if the chief judge of the district “specifically finds ... that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted in person without seriously jeopardizing public health and safety.” § 15002(b)(2).2.

The CARES Act authorization for expanded use of video and audio conferencing in criminal matters will terminate on the earlier of (a) 30 days after the date on which the national

emergency ends under the National Emergencies Act (50 U.S.C. 1601 et seq.), or (b) when the Judicial Conference finds that the federal courts are no longer materially affected. The President may terminate an emergency by issuing a proclamation, or by not publishing a continuation notice (which must meet certain conditions). Congress and the President may terminate an emergency by passing and enacting a joint resolution into law (50 U.S.C. §1622(a) and (d)). To date, we have no indication that the President or Congress is about to terminate the emergency or that the Judicial Conference is considering a determination that the emergency no longer materially affects the federal courts.

Congress has passed legislation authorizing the use of videoconferencing and teleconferencing, under certain circumstances and with the consent of the defendant, for various criminal case events during the course of the COVID-19 emergency. See the CARES Act, H.R. 748, Section 15002 et seq. The Judicial Conference of the United States has also found that emergency conditions due to the national emergency declared by the President have affected and will materially affect the functioning of the federal courts generally.

As Chief Judge of this judicial district, and pursuant to Section 15002(b)(1) of the legislation, I hereby authorize the use of videoconferencing, or teleconferencing if videoconferencing is not reasonably available, for all events listed in Section 15002(b) of the legislation to wit:

- (A) Detention hearings under Section 3142 of Title 18, United States Code.
- (B) Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure.
- (C) Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure.
- (D) Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure.

(E) Arraignments under Rule 10 of the Federal Rules of Criminal Procedure.

(F) Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure.

(G) Pretrial release revocation proceedings under Section 3148 of Title 18, United States Code.

(H) Appearances under Rule 40 of the Federal Rules of Criminal Procedure.

(I) Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure.

(J) Proceedings under chapter 403 of Title 18, United States Code (commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

Pursuant to Section 15002(b)(2), I, as Chief Judge, on my own motion, further specifically find that during the pendency of this order, there is the potential that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure cannot prudently be conducted in person in this judicial district without seriously jeopardizing public health and safety. As a result, if at any time a judge in an individual case finds, for specific reasons, that a felony plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice, the judge may, with the express consent of the defendant and counsel, use videoconferencing, or teleconferencing if videoconferencing is not reasonably available, for the felony plea or sentencing in that case. Judges may also use this authority for equivalent events in juvenile cases

as described in Section 15002(b)(2)(B), with the consent of the juvenile after consultation with counsel.

This Order is promulgated to facilitate the orderly administration of justice during the COVID-19 emergency in the event that the presiding judge, counsel, and the defendant expressly agree to conduct a proceeding via video or teleconferencing. Nothing herein shall create a presumption that any proceeding shall be conducted via video or teleconferencing and should counsel and the defendant refuse to consent to the same, it shall be assumed that the said refusal is rendered in good faith.

Therefore, pursuant to Section 15002(b)(3) of The CARES Act, this Order, which is effective immediately, will remain in effect for 90 days unless terminated earlier. I have found that emergency conditions continue to exist, the President's emergency declaration remains in effect, and the Judicial Conference's finding that the emergency conditions will materially affect the functioning of the federal courts has not changed. The Chief Judge will continue to review this Order and determine whether to extend it. Such review will occur not less frequently than once every 90 days, until the last day of the covered emergency period or until the Chief Judge determines that this authorization is no longer warranted.

BY THE COURT: June 24, 2020

s/ John E. Jones III
Hon. John E. Jones III, Chief Judge
United States District Court
Middle District of Pennsylvania