

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

IN RE:)
VIDEO TELECONFERENCING FOR)
CRIMINAL PROCEEDINGS UNDER)
CARES ACT)
)

STANDING ORDER 2020-07

1. On March 13, 2020, the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19).

2. On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), H.R. 748, vesting certain authority in the Chief Judge of a United States District Court based on a finding of a national emergency by the Judicial Conference of the United States.

3. On March 29, 2020 the Judicial Conference of the United States found that emergency conditions, due to the national emergency declared by the President with respect to COVID-19, will materially affect the functioning of the federal courts generally.

4. Pursuant to section 15002(b)(1) of the CARES Act and the March 29, 2020, finding by the Judicial Conference of the United States, on the motion of the Chief Judge of the United States District Court for the Western District of Virginia, it is **ORDERED** that videoconferencing, or teleconferencing if videoconferencing is not reasonably available, is authorized for use for the following criminal proceedings, only with the consent of the defendant, or the juvenile, after consultation with counsel:

- Detention hearings under section 3142 of title 18, United States Code;
- Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;

- Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
- Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- Pretrial release revocation proceedings under section 3148 of title 18, United States Code;
- Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and
- Proceedings under chapter 403 of title 18, United States Code (the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

5. Further, pursuant to section 15002(b)(2) of the CARES Act, and the March 29, 2020, finding by the Judicial Conference of the United States, on the motion of the Chief Judge of the United States District Court for the Western District of Virginia, the Chief Judge 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 in this district without seriously jeopardizing public health and safety. As a result, if 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 consent of the defendant after consultation with counsel, use videoconferencing, or teleconferencing if videoconferencing is not reasonably available, for the felony plea or sentencing in that case. Judges

also may use this authority for equivalent events in juvenile cases as described in section 15002(b)(2)(B).

6. The statute expressly authorizes the use of teleconferencing if videoconferencing is not reasonably available. The court anticipates that issues concerning the bandwidth capacity available to the federal judiciary, the resources of local jail facilities and community internet capacity may limit the availability of secure videoconferencing in criminal proceedings. In those instances where videoconferencing is not reasonably available, the presiding district or magistrate judge may conduct the proceeding by teleconference with the consent of the defendant, or the juvenile, after consultation with counsel.

7. Pursuant to section 15002(b)(3), this Order will remain in effect for 90 days unless terminated earlier. If, 90 days from the date of this Order, the President's emergency declaration remains in effect, along with the Judicial Conference's finding that the emergency conditions will materially affect the functioning of the federal courts, the Chief Judge shall review the authorization described in this order and determine whether it shall be extended. Such reviews 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 the authorization is no longer warranted.

It is so **ORDERED**.

ENTER: This 30th day of March, 2020

/s/ Michael F. Urbanski

Michael F. Urbanski
Chief U.S. District Judge