

May 01, 2020

JULIA C. DUDLEY, CLERK
BY: s/ A. Beeson
DEPUTY CLERK

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

IN RE: COVID-19 PANDEMIC.)
PUBLIC ACCESS TO REMOTE JUDICIAL)
PROCEEDINGS;)
CONFIDENTIALITY OF PRETRIAL)
SERVICES REPORTS)

STANDING ORDER 2020-12

1. Public Access to Remote Judicial Proceedings.

The judicial emergency created by the COVID-19 pandemic has required the court to undertake its constitutional obligations by means of video and teleconferencing in an effort to protect the health and safety of the public and persons involved in the judicial system. At the same time, the public has a common law and constitutional right of access to court proceedings.

United States Judicial Conference policy prohibits the broadcasting of civil and criminal proceedings in federal trial courts. See Guide to Judicial Policy, Vol. 10, Ch. 4 (“Judicial Conference policy does not allow either civil or criminal courtroom proceedings in the district courts to be broadcast, televised, recorded, or photographed for the purpose of public dissemination.”); JCUS-SEP 94, at 46-47. Additionally, as to criminal proceedings, the Federal Rules of Criminal Procedure generally prohibit the court from allowing “the broadcasting of judicial proceedings from the courtroom.” Fed. R. Crim. P. 53.

Balancing the public’s right of access with these limitations on recording or broadcasting federal district court proceedings, the Judicial Conference of the United States, acting on an expedited basis through its Executive Committee, has approved a temporary exception that allows federal courts to authorize the use of teleconference technology to provide the public and the media with audio access to court proceedings during the period that public access to federal courthouses is

limited due to the health and safety concerns caused by the COVID-19 pandemic. Consistent with such a temporary exception, the court authorizes the use of appropriate teleconference services in this district in order to allow, to the extent practicable, members of the public and the press to access a toll-free telephone line to remotely listen to the live audio-stream of civil and criminal court proceedings that are conducted remotely during the judicial emergency created by the COVID-19 pandemic. Dial-in information, and further details outlining the procedure for the public and press to telephonically access such remote proceedings, will be provided on the court's public website.

Although toll-free telephone access to the audio-stream of Court proceedings conducted by video or teleconference is temporarily authorized in this district, the prohibition against recording and broadcasting court proceedings set forth in Standing Order 2013-8 Re: Possession and Use of Portable Electronic Devices in Courthouses and Courtrooms, remains in force and applies to persons remotely accessing court proceedings by telephone during the COVID-19 pandemic. Consistent with Standing Order 2013-8, the following limitation is ORDERED regarding remote access to court proceedings in this district during the COVID-19 judicial emergency:

The operation of any video or audio recording device by any lawyer, litigant, participant, or observing member of the press and public, is prohibited during remote proceedings. Therefore, with the exception of court personnel, any person remotely participating in, or listening to, a remote court proceeding may not record, or cause to be recorded, any such proceeding. Furthermore, no person participating in, or listening to, such a proceeding may rebroadcast, live-stream, or otherwise disseminate any live or recorded video or audio of the court proceeding.

Violation of the prohibition against photographing, recording and broadcasting of court proceedings may result in sanctions, including removal of court issued media credentials, restricted access to future hearings, denial of entry to future hearings, and any other sanctions deemed necessary by the court.

Further procedural restrictions regarding toll-free telephonic access to court proceedings during the judicial emergency created by the COVID-19 pandemic may be set forth on the court's website and

may change from time to time as circumstances warrant.

2. Confidentiality of Pretrial Services Reports.

Section 3153(c) of Title 18 of the United States Code provides for confidentiality of Pretrial Services Reports prepared by United States Probation Officers. Pretrial Services Confidentiality Regulations, contained in Volume 8, Part A, Section 240.20.40 of the Guide to Judiciary Policy, require pretrial services reports to be returned to probation officers following a judicial proceeding concerning pretrial release or detention. Because these hearings are being held by video or teleconference at present due to the judicial emergency created by the COVID-19 pandemic, probation officers are authorized to provide Pretrial Services Reports to defense counsel and counsel for the government by electronic means. During the judicial emergency created by the COVID-19 pandemic, the requirement that Pretrial Services Reports be returned to the probation officer at the conclusion of a judicial proceeding is temporarily suspended. Counsel is required to maintain the confidentiality of Pretrial Services Reports and may not disclose them to others.

It is so **ORDERED**.

Enter: This 1st day of May, 2020



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Michael F. Urbanski
Chief United States District Judge