

2/28/2022

JULIA C. DUDLEY, CLERK
BY: s/ S. Neily
DEPUTY CLERK

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

IN RE:)
REAUTHORIZATION OF VIDEO)
AND TELECONFERENCE HEARINGS)
IN CRIMINAL CASES UNDER THE)
CARES ACT)

STANDING ORDER 2022-04

1. In March 2020, the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was enacted authorizing video and teleconferencing under certain circumstances for various criminal proceedings during the COVID-19 emergency. On March 29, 2020, the Judicial Conference of the United States made a finding of the need to conduct such hearings in federal courts generally.

2. By Standing Order dated March 30, 2020, the court authorized video and teleconferences in the Western District of Virginia under the CARES Act. Such authorization applied to both criminal proceedings specified in §§ 15002(b)(1) and 15002(b)(2) of the CARES Act, including felony guilty plea and sentencing hearings, as to which the court found that such hearings could not be conducted in person without seriously jeopardizing public health and safety.

3. The CARES Act provided the court with authority to conduct criminal proceedings by video and teleconference for up to 90 days and provided for subsequent extensions. The authorization has been extended seven times, and the existing authorization expires on February 28, 2022.

4. On February 25, 2021, the President notified Congress that the pandemic continues to cause significant risk to the public health and safety of the nation and, on February 26, 2021,

published formal notice in the Federal Register continuing the national emergency concerning COVID-19. Because the national emergency has been extended and the Judicial Conference finding of emergency conditions remains in effect, the authorization for the expanded use of video and telephone conferencing under the CARES Act remains available to courts still affected by the pandemic.

5. On November 30, 2021, the United States designated the newest variant of COVID-19, Omicron, as a variant of concern. Since that time, the Omicron variant has been detected in most cities and territories and is recognized as the dominant variant in the United States. As of today, the community transmission rates of COVID-19 remain at the HIGH level throughout the Western District of Virginia. According to the CDC, the Omicron variant is more highly contagious but produces milder symptoms with fewer hospitalizations and deaths than previous variants. Based on current information, the Omicron variant produces cases of COVID-19 infections in large numbers of the population regardless of vaccination status. The CDC also advises that new variants of the virus are expected to occur.

6. As of February 25, 2022, the Centers for Disease Control and Prevention (“CDC”) reports that 215.3 million people are fully vaccinated, comprising 64.8% of the total national population. In addition, 93.6 million people, or 43.5% of the population, have received a booster dose of the vaccine. In Virginia, 71.9% of the population is fully vaccinated and approximately 27% of the population has received a booster dose, as reported by the Virginia Department of Health. While these numbers reflect progress, the public health emergency persists.

7. Pursuant to § 15002(b)(3)(B) of the CARES Act, the court has reviewed the March 30, 2020, June 26, 2020, September 27, 2020, December 22, 2020, March 16, 2021, June 15, 2021, September 24, 2021, and December 7, 2021 authorizations for the use of video and

teleconferencing and the current public health situation and has concluded that the public health emergency caused by the ongoing coronavirus pandemic requires an extension of the authorization for an additional period of time. In addition, the physical distancing requirements for conducting in-person court proceedings safely limits the court's ability to conduct multiple court proceedings in a given day. As such, the continued use of video and teleconference proceedings provides the court with the requisite flexibility to address a multitude of criminal proceedings, while simultaneously assuring the safety and well-being of all participants.

8. In making this determination, the court has requested comment from the United States Attorney, the Federal Public Defender, and the Representative for Criminal Justice Act Panel for the Western District of Virginia. All three offices support reauthorization.

9. This reauthorization applies both to the criminal proceedings specified in §§ 15002(b)(1) and 15002(b)(2) of the CARES Act, including felony guilty plea and sentencing hearings, as to which the court continues to find that such hearings cannot be conducted in person without seriously jeopardizing public health and safety.

10. This reauthorization will expire on May 27, 2022. At that point, pursuant to § 15002(b)(3)(B) of the CARES Act, the court will review the authorization of authority and determine whether to extend the authorization for an additional 90 days.

It is so **ORDERED**.

Entered: February 28, 2022



Michael F. Urbanski
Chief United States District Judge