

11/09/2022

LAURA A. AUSTIN, CLERK

BY: A. Seagle A.
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 2022-18

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 ten times, and the existing authorization expires on November 15, 2022.

4. On October 13, 2022, the President extended the nation's COVID-19 public health emergency for 90 days in anticipation of a potential surge of outbreaks over the upcoming winter months. Although daily deaths and case rates have been trending down, the pandemic continues to cause significant risk to the public health and safety of the nation. 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. Since COVID-19 emerged in 2020, there have been periods of increased cases, hospitalizations, and deaths. In 2021, these COVID-19 metrics surged as a result of the Delta variant. During the past winter, the Omicron variant caused another resurgence. After a period of decline, the COVID-19 numbers rose again. According to CDC data, the BA.5 variant currently makes up 81% of all current cases. BA.5 is three times less sensitive to antibodies from the original Covid vaccine than the original omicron strain. Research suggests that some new dangerous subvariants are emerging including BA.4.6 which may be more contagious than BA.5. The CDC is forecasting a surge of cases in the fall and winter months.

6. As of November 2, 2022, the CDC reports that 227 million people are fully vaccinated, comprising 68.5% of the total national population. In addition, 112 million people, or 49.6% of the population, have received one booster dose of the vaccine and 28 million people 50 and over, or 43.2% have received a second booster dose. In Virginia 73.1% of the population is fully vaccinated as reported by the Virginia Department of Health. Although vaccines have been made available to persons in detention facilities in this district, the corresponding

vaccination rates are far lower. Despite monumental vaccination efforts, 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, February 28, 2022, May 23, 2022, and August 18, 2022, 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, each of whom 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 January 11, 2023. 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: November 9, 2022



Digitally signed by Michael F.
Urbanski Chief U.S.
District Judge
Date: 2022.11.09 08:58:03
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Michael F. Urbanski
Chief United States District Judge