

SEP 24 2021

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

JULIA C. DUDLEY, CLERK
BY: *A. Slagle*
DEPUTY CLERK

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

STANDING ORDER 2021-19

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 four times, and the existing authorization expires on September 18, 2021.

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. As of today, the Centers for Disease Control and Prevention (“CDC”) reports that 182.4 million people are fully vaccinated, comprising 66.1% of the national population over 18 years of age. The corresponding vaccination figure for Virginia is 71.1%, as reported by the Virginia Department of Health. The public health campaign to achieve herd immunity by vaccination continues. While these numbers reflect progress, only around 20% of Western District of Virginia federal detainees have been vaccinated, resulting in an ongoing concern as to the transport and exposure of unvaccinated persons. In short, the public health emergency persists.

6. 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, and June 15, 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 90 days. This is particularly necessary as the vast majority of federal detainees awaiting trial in the Western District of Virginia have not been vaccinated. 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.

7. In making this determination, the court has requested comment from the Acting 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.

8. 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.

9. This reauthorization is nunc pro tunc effective as of September 19, 2021.

10. This reauthorization will expire on December 18, 2021. 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: September 24, 2021

A handwritten signature in blue ink, appearing to read 'M. Urbanski', with a long horizontal line extending to the right.

Michael F. Urbanski
Chief United States District Judge