

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

VIDEO AND TELECONFERENCING FOR
CRIMINAL PROCEEDINGS UNDER THE
CARES ACT

GENERAL ORDER

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring a National Emergency in response to the Coronavirus Disease-2019 (“COVID-19”) pandemic, pursuant to the National Emergencies Act (50 U.S.C. § 1601, *et seq.*);

WHEREAS, on March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which authorized the Judicial Conference of the United States to provide authority to Chief District Judges to permit the use of video or audio conference to conduct certain criminal proceedings;

WHEREAS, the President signed the CARES Act into law on March 27, 2020;

WHEREAS, on March 29, 2020, the Judicial Conference of the United States made the appropriate findings as required under the CARES Act, finding specifically that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. § 1601, *et seq.*) with respect to COVID-19 have materially affected and will materially affect the functioning of the federal courts generally;

WHEREAS, acting pursuant to Section 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, as Chief Judge, I find that emergency conditions due to the COVID-19 virus outbreak will materially affect the functioning of the courts within this District;

WHEREAS, pursuant to Section 15002(b)(2) of the CARES Act, as Chief Judge, I further specifically find 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 without seriously jeopardizing public health and safety.

IT IS HEREBY ORDERED that, pursuant to the authority granted under Section 15002(b)(1) of the CARES Act, judges in this District, with the consent of the defendant or the juvenile after consultation with counsel, are authorized to use video conferencing, or telephonic conferencing if video conferencing is not reasonably available for use, for the following events:

- (A) Detention hearings under Section 3142 of Title 18, United States Code;
- (B) Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;
- (C) Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
- (D) Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- (E) Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- (F) Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- (G) Pretrial release revocation proceedings under Section 3148 of Title 18, United States Code;
- (H) Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- (I) Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and

(J) Proceedings under Chapter 403 of Title 18, United States Code (commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings;

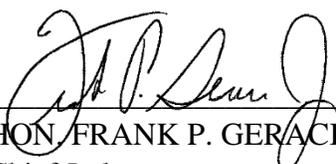
IT IS FURTHER ORDERED that if a judge in an individual case finds, for specific reasons, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, the judge may, with the consent of the defendant or the juvenile after consultation with counsel, conduct those proceedings by video conference, or by telephonic conference if video conferencing is not reasonably available. Under Section 15002(b)(2)(B) of the CARES Act, this authority extends to equivalent plea, sentencing or disposition proceedings under 18 U.S.C. § 403 (commonly referred to as the “Federal Juvenile Delinquency Act.”);

IT IS FURTHER ORDERED that, pursuant to Section 15002(b)(3) of the CARES Act, this authorization is effective for ninety (90) days from the date of this order unless earlier terminated. If the emergency persists longer than ninety (90) days, I will review the situation for possible extension of authority pursuant to the provisions of the CARES Act;

IT IS FURTHER ORDERED that, notwithstanding the foregoing, pursuant to Section 15002(b)(3) of the CARES Act, this authority shall terminate on the last day of the covered emergency period or the date on which the Judicial Conference of the United States finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act with respect to the COVID-19 outbreak no longer materially affect the functioning of either the Federal courts generally or the courts within this District.

IT IS SO ORDERED.

Dated: March 30, 2020
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court