United States District Court
Southern District of Texas
E N T E R E D

December 17 2020

David J. Bradley, Clerk of Court

By Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

CARES ACT AUTHORIZATION FOR   §
VIDEO AND AUDIO CONFERENCING   §   GENERAL ORDER NO. 2020-27
IN CRIMINAL PROCEEDINGS   §

THIRD SUPPLEMENTAL ORDER

Acting under § 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, as Chief Judge of the United States District Court for the Southern District of Texas, I make the following findings and enter the following Order:

1. Emergency conditions due to the COVID-19 virus outbreak have affected and will continue to materially affect the functioning of the courts within this judicial district. Under the authority of § 15002(b)(1) of the CARES Act, I hereby authorize judges in this district, with the consent of the defendant or the juvenile after consultation with counsel and a waiver of personal appearance made on the record, 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.

(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.

2. Under § 15002(b)(2) of the CARES Act, I further 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 in most cases be conducted in person without seriously jeopardizing public health and safety. As a result, if judges in individual cases find, for specific reasons stated on the record in those cases, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, judges may, with the consent of the defendant or the juvenile after consultation with counsel and a waiver of personal appearance stated on the record, conduct those proceedings by video conference, or by telephonic conference if video conferencing is not reasonably available. This authority extends to equivalent plea, sentencing, or disposition proceedings under 18 U.S.C. 403 (the "Federal Juvenile Delinquency Act.").

3. This authorization is effective beginning December 29, 2020, and will expire on March 29, 2021, unless earlier terminated. If the emergency lasts past March 29, 2021, the court will review the situation for possible extension of authority under the provisions of the CARES Act. In any event, this authority will terminate on the earlier of the last day of the covered emergency period or the date when the Judicial Conference of the United States finds that emergency conditions from the COVID-19 virus national emergency declared by the

President under the National Emergencies Act no longer materially affect the functioning

of either the federal courts generally or the courts within this district.

None of these provisions preclude the resumption of jury trials in those divisions where the

judges believe it is safe to do so.

ORDERED this the 17th day of December 2020.

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LEE H. ROSENTHAL
CHIEF JUDGE