

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

December 17 2020

David J. Bradley, Clerk of Court

By Deputy Clerk 

ORDER ON WRITTEN WAIVERS OF  
PERSONAL APPEARANCES UNDER  
THE CARES ACT

§  
§  
§

GENERAL ORDER NO. 2020-28

THIRD SUPPLEMENTAL ORDER

The CARES Act provisions on Judiciary Video Teleconferencing for Criminal Proceedings and some Federal Rules of Criminal Procedure, allow for remote appearances by defendants if counseled waiver is given on the record. Certain Federal Rules of Criminal Procedure including Rules 10(b)(2), 15(c)(1)(A), 20(a)(1), 23(a)(1), 32(e), 43(b)(2), allow for consent or waiver of certain rights by a defendant, but require the consent or waiver to be in writing. More broadly, various documents, such as financial affidavits and appearance bonds or other orders for release, generally call for the signatures of defendants, counsel, or judges. The current circumstances are likely to make it impracticable, if not impossible, to obtain actual signatures in a timely and safe manner. For these reasons, the following ORDER is entered:

When a judge finds that obtaining an actual signature is impracticable or imprudent in light of the public-health situation relating to COVID-19, any document may be signed electronically.

When a defendant's signature is called for, either defense counsel or the presiding judge may sign on the defendant's behalf if the defendant, after an opportunity to consult with counsel, consents on the record.

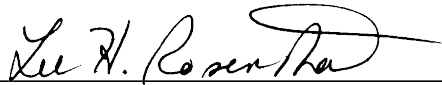
When consent or waiver is not explicitly required to be in writing by the Federal Rules of Criminal Procedure or other applicable law, the consent or waiver may be obtained in whatever form is practicable under the circumstances, so long as the defendant's consent or waiver is clearly reflected in the record.

A judge has the discretion not to follow this Order in any specific case or in all the cases pending before that judge.

None of these provisions preclude the resumption of jury trials in those divisions where the judges believe it is safe to do so.

This Order is effective beginning December 29, 2020, and will expire on the earlier of termination of the national emergency declared by the President, or, unless renewed by court order, on March 29, 2021.

ORDERED this the 17th day of December 2020.

  
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LEE H. ROSENTHAL  
CHIEF JUDGE