

**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 2023-12

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. CARES Act authorizations extend through 30 days after the national emergency declaration terminates. 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.¹

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.

¹ The Judicial Conference of the United States (JCUS) also approved a temporary exception to the Judiciary’s broadcasting policy allowing district and bankruptcy courts to provide audio only remote public access to court proceedings. This exception continues to be available until 120 days after the JCUS finds the emergency declared by the President no longer materially affects the functioning of the federal courts.

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 twelve times, and the existing authorization expires on April 11, 2023.

4. On January 30, 2023, the President extended the nation's public health emergency until May 11, 2023. On February 10, 2023, the President provided notice of his intent to terminate the COVID-19 national emergency on May 11, 2023, and the federal Public Health Emergency caused by COVID 19 is set to expire at that time. Therefore, under the CARES Act, the court's authorization to use video or teleconferencing technologies will expire thirty days thereafter or on June 10, 2023. Although COVID-19 levels in our district are generally in the "low" and "medium" range, spikes continue to occur periodically. 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. The introduction of multiple variants and subvariants has created challenges in combating the disease. Some people who have been vaccinated have still contracted COVID-19 and in some cases have contracted it more than once.

6. As of April 3, 2023, the CDC reports that 69.4% of the national population have been vaccinated. In Virginia 73.8% 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, August 18, 2022, November 9, 2022, and January 11, 2023, 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 received communication from the United States Attorney and the Representative for Criminal Justice Act Panel for the Western District of Virginia supporting 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 June 10, 2023, or thirty days after the termination of the COVID-19 national emergency.²

It is so **ORDERED**.

Entered: April 5, 2023



Digitally signed by Michael F.
Urbanski Chief U.S. District
Judge
Date: 2023.04.05 09:11:40 -04'00'

Michael F. Urbanski
Chief United States District Judge

² Joint Resolution (H.J. Res. 7) which seeks to end the national emergency immediately upon its effective date has been passed by both the House and Senate and the President is expected to sign it. Although the precise effective date of the resolution has not yet been announced, the national emergency may end earlier than May 11, 2023.