

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In the matter of)
)
CRIMINAL CASE PROCEEDINGS)
DURING THE COVID-19 PUBLIC)
EMERGENCY)
_____)

**Order of the
Chief Judge No. 63-L**

On November 21, 2022, Chief Judge Order (CJO) 63-K was issued and provided for the use of video teleconferencing, or telephone conferencing if video conferencing is not reasonably available, for certain criminal proceedings pursuant to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

The Coronavirus Disease 2019 (“COVID-19”) outbreak is still considered to be a national emergency under the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* The finding made by the Judicial Conference of the United States that “emergency conditions due to the national emergency declared by the President with respect to COVID-19 will materially affect the functioning of the federal courts generally” remains. Therefore, pursuant to § 15002(b)(1) of the CARES Act, the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, is authorized for the following proceedings:

- (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.

Video teleconferencing or telephone conferencing as authorized by this Order may only take place with the consent of the defendant, or the juvenile, after consultation with counsel. This consent may be obtained on the record at the time of the relevant event and need not be in writing.

Individual District and Magistrate Judges retain discretion, on a case by case basis, to schedule in-person criminal proceedings, and otherwise take such actions as may be lawful and appropriate to ensure the fairness of the proceedings and preserve the rights of the parties. In doing so, judges must consider in each individual case whether convening an in-person hearing poses a serious threat to health and safety.

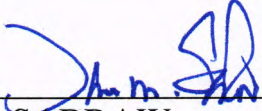
CJO 63-K also provided for felony plea and sentencing proceedings to be conducted in person. Those proceedings will continue to be conducted in person. Hearings in these matters may be set on any day of the week for both in-custody defendants and defendants who are out of custody.

Attorneys who for health or other exceptional reasons are unable to appear in-person with their clients may request to appear telephonically or by videoconference with the presiding judge.

This Order will go into effect on February 20, 2023, and remain in place until further order of the Court.

IT IS SO ORDERED.

Dated: 2-16-23



DANA M. SABRAW
Chief United States District Judge