U.S. District Court
N.D.N.Y.
Filed
February 24, 2021
John M. Domurad, Clerk

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

GENERAL ORDER #59

April 3, 2020
Revised May 13, 2020
Revised June 12, 2020
Revised August 6, 2020
Revised October 8, 2020
Revised December 4, 2020
Revised February 24, 2021

IN RE: CRIMINAL CASE OPERATIONS IN RESPONSE TO CORONAVIRUS COVID-19 PUBLIC EMERGENCY

WHEREAS this Court continues to evaluate its response to the spread of the COVID-19 virus, and recognizes the need to assist in the preservation of public safety and health while effectively administering justice during this period of national emergency; and

WHEREAS the Judicial Conference of the United States (JCUS) has found under the CARES Act, H.R. 748 (CARES Act), that emergency conditions due to the national emergency declared by the President will materially affect the functioning of the Federal courts generally;

NOW THEREFORE, the Court hereby adopts the following Order:

1. This Court recognizes that emergency conditions exist throughout this District, as found by the JCUS under the CARES Act;

2. This Court authorizes on its own motion the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, in the criminal procedures specifically enumerated in Section 15002(b)(1) of the CARES Act, to wit:

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.

3. This Court finds on its own motion, under Section 15002(b)(2) of the CARES Act, 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, and thus the use of video teleconferencing, or telephone conferencing if video teleconferencing is not

reasonably available, is permitted in such cases;

4. Under Section 15002(b)(2)(A) of the CARES Act, any judge presiding in a particular case who authorizes the use of video teleconferencing or telephone conferencing if video teleconferencing is not reasonably available under paragraph 3 of this Order, must find for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice. Under Section 15002(b)(4) of the CARES Act, this authorization may occur only with the consent of the defendant, or the juvenile, after consultation with counsel. The presiding judge in the case may authorize remote means including but not limited to participation of defense counsel in the video or telephone conference to facilitate consent of the defendant; and

5. This Court recognizes that it is required under Sections 15002(b)(3)(A) and (B) of the CARES Act to review the findings and authorizations made in this Order no later than ninety (90) days after its initial Order or any subsequent renewal.

This Court will review its initial findings and authorizations under this Order no later than May 1, 2021.

6. Absent exceptional circumstances, the above-referenced proceedings shall be conducted with the defendant in correctional facilities and/or U.S. Marshal's detention areas with Northern District of New York approved videoconference or telephone conference capabilities.

Dated this 24th day of February 2021 at Syracuse, New York

Hon. Glenn T. Suddaby
Chief Judge