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Dec 17, 2020

Vicki Kinkade
Chief Deputy Clerk

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

IN RE:)
)
VIDEO TELECONFERENCING AND)
TELEPHONE CONFERENCING IN) ADMINISTRATIVE ORDER NO. 209-1
CRIMINAL CASE PROCEEDINGS) (Third Amended)
DUE TO EXIGENT CIRCUMSTANCES)
CREATED BY COVID-19)

ORDER

On March 31, 2020, Administrative Order No. 209-1 was entered, to be in effect for 90 days unless terminated earlier, pursuant to the “Coronavirus Aid, Relief, and Economic Security Act” (“CARES Act”), which authorized the use of video and telephone conferencing for various criminal case proceedings during the course of the COVID-19 national emergency. On June 22, 2020 and September 20, 2020, Administrative Order No. 209-1 was amended extending the provisions of the initial Order. Previously, the Judicial Conference of the United States (Judicial Conference) found, pursuant to the CARES Act, that emergency conditions exist that materially affect and will continue to affect the functioning of the federal courts generally due to the national emergency with respect to COVID-19.

The United States District Court for the Middle District of Tennessee 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. As emergency conditions continue to exist throughout this District due to COVID-19 and as emergency authority under Section 15002(b)(5) of the CARES Act has not been terminated, Second Amended Administrative Order No. 209-1 is hereby extended. Accordingly, it is hereby ORDERED as follows:

1. The Court approves the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, in criminal case proceedings, with Defendant's consent confirmed on the record before the proceeding begins or in writing before the proceeding begins, as specifically enumerated in Section 15002(b)(1) of the CARES Act, in the following criminal case 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.

2. Pursuant to Section 15002(b)(2), this Court also specifically finds 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 normally 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 circumstances where the interests of justice require a prompt hearing. However, the presiding judge has discretion to conduct pleas or sentencing in the normal fashion in person.

3. Under Section 15002(b)(2)(A) of the CARES Act, any judge presiding over a particular plea or sentencing under the CARES Act who desires to use video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, under paragraph 2 of this Order, must make specific findings of the 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)(2)(4) of the CARES Act, this authorization may occur only with the consent of the defendant, or the juvenile, after consultation with counsel. Judges may also use this authority for equivalent events in juvenile cases as described in Section 15002(b)(2)(B).

4. The Court has adopted the “Consent To Appear By Video Conference” that must be used by a Defendant and the Defendant’s counsel of record to inform the Court of the Defendant’s consent to video teleconference, or telephone conference if video teleconferencing is not reasonably available.

5. Pursuant to Section 15002(b)(3) of the CARES Act, this authorization will remain in effect for 90 days unless terminated earlier. If emergency conditions continue to exist 90 days after entry of this Order, this authorization may be extended.

FOR THE COURT



WAVERLY D. CRENSHAW, JR.
Chief United States District Judge