

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

MAR 30 2020

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY MTD DEPUTY

GENERAL ORDER REGARDING EMERGENCY PROCEDURES AUTHORIZED BY THE
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, H.R. 748, P.L.116-136,
134 Stat.281, (CARES ACT) INCLUDING THE USE OF VIDEO AND TELEPHONIC
CONFERENCE FOR VARIOUS CRIMINAL EVENTS DURING THE COVID-19
EMERGENCY

On March 13, 2020, the President of the United States issued a proclamation declaring a National Emergency in response to the Coronavirus Disease-2019 ("COVID-19") pandemic under the National Emergencies Act (50 U.S.C. § 1601, et seq.). On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"). This Act authorized the Judicial Conference of the United States to provide authority to Chief District Judges to permit the conduct of certain criminal proceedings by video or audio conference. The President signed the CARES Act into law on March 27, 2020.

On March 29, 2020, on the joint recommendation of the chairs of the Committee on Court Administration and Case Management and the Committee on Rules of Practice and Procedure, the Judicial Conference found, pursuant to the CARES Act, that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to COVID-19 have materially affected and will materially affect the functioning of the federal courts generally.

Acting under § 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, as Chief Judge of the United States District Court for the Western District of Texas, I make the following findings and enter the following Order:

1. Emergency conditions due to the COVID-19 virus outbreak have affected and will continue to materially affect the functioning of the courts within this judicial district. Under the authority of § 15002(b)(1) of the CARES Act, I hereby authorize judges in this district, with the consent of the defendant or the juvenile after consultation with counsel and a waiver of personal appearance made on the record, to use video conferencing, or telephonic conferencing if video conferencing is not reasonably available for use, for the following events:

- 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.
- 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. Under § 15002(b)(2) of the CARES Act, I further find 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 in most cases be conducted in person without seriously jeopardizing public health and safety. As a result, if judges in individual cases find, for specific

reasons stated on the record in those cases, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, judges may, with the consent of the defendant or the juvenile after consultation with counsel and a waiver of personal appearance stated on the record, conduct those proceedings by video conference, or by telephonic conference if video conferencing is not reasonably available. This authority extends to plea agreements, sentencing, or disposition proceedings under 18 U.S.C. 403 (the "Federal Juvenile Delinquency Act.").

3. This authorization is effective for ninety (90) days unless earlier terminated. If the emergency lasts longer than ninety (90) days, I will review the situation for possible extension of authority under the provisions of the CARES Act. In any event, this authority will terminate on the earlier of the last day of the covered emergency period or the date when the Judicial Conference of the United States finds that emergency conditions from the COVID-19 virus national emergency declared by the President under the National Emergencies Act no longer materially affect the functioning of either the federal courts generally or the courts within this district. Nothing in this Order is intended to prevent a judge from using the judge's discretion to conduct an in-person proceeding in an individual case.

FOR THE COURT

So ORDERED and SIGNED THIS 30TH DAY OF MARCH, 2020



ORLANDO L GARCIA
CHIEF UNITED STATES DISTRICT JUDGE