



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IN RE:

CONSENT AND SIGNATURE
REQUIREMENTS ON DOCUMENTS
FILED IN CRIMINAL ACTIONS DURING
THE COVID-19 PUBLIC EMERGENCY

GENERAL ORDER NO. 616

As reviewed in this court's prior General Orders 611-615, the current public health crisis surrounding the outbreak and spread of the coronavirus (COVID-19) is causing and is expected to continue to cause significant disruption throughout the Eastern District of California, with temporary closure of courthouses and offices, travel restrictions and disruptions and delays in the use of the mail and delivery services.

Moreover, diagnosed cases of COVID-19 among correctional staff and inmates in at least one detention facility in the Eastern District so far have caused restrictions on the movement of defendants to and from court, with additional restrictions likely before the coronavirus pandemic subsides. These and other considerations have led judges in this District to conduct proceedings remotely by videoconference or other means, as provided by General Order 614, with defense counsel and defendants sometimes in separate locations. As a result, the court has a need to clarify the application of certain rules with respect to signatures on documents.

In particular, some Federal Rules of Criminal Procedure, including but not necessarily limited to Rules 10(b)(2), 15(c)(1)(A), 20(a)(1), 23(a)(1), 32(e) and 43(b)(2), allow for consent or waiver of certain rights by a defendant, but require that such consent or waiver be in writing.

More broadly, various documents, including but not limited to financial affidavits, appearance bonds/orders for release, and consents to waive preliminary hearings call for the signatures of defendants, counsel, and/or judges. The current circumstances are likely to make it impracticable, if not impossible, to obtain actual signatures in a timely and safe manner.

For these reasons, IT IS ORDERED THAT, where a judge finds that obtaining an actual signature is impracticable or imprudent in light of the public health situation relating to COVID-19, any document may be signed electronically using the format “/s/ name.”

IT IS FURTHER ORDERED that, where a defendant's signature is called for, unless otherwise ordered by the court defense counsel may sign electronically on the defendant's behalf using the format “/s/ name” and file the signed document electronically after defendant has an opportunity to consult with counsel and consents to counsel’s signing on defendant’s behalf.

IT IS FURTHER ORDERED THAT, for the avoidance of doubt, where consent or waiver is not explicitly required to be in writing by the Federal Rules of Criminal Procedure or other applicable law, such consent or waiver may be obtained in whatever form is most practicable under the circumstances, so long as the defendant's consent or waiver is clearly reflected on the record.

IT IS SO ORDERED.

DATED: April 15, 2020

FOR THE COURT:



KIMBERLY J. MUELLER
CHIEF UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF CALIFORNIA