

FILED

Jan 04, 2021

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

IN RE:

CORONAVIRUS PUBLIC EMERGENCY
AUTHORIZING VIDEO-
TELECONFERENCING AND TELEPHONE
CONFERENCING FOR CRIMINAL
PROCEEDINGS UNDER SECTION 15002
OF THE CORONAVIRUS AID, RELIEF,
AND ECONOMIC SECURITY (CARES)
ACT

GENERAL ORDER NO. 628

This court issues this General Order as another in a series of General Orders in response to the continuing spread and persistence of the Coronavirus Disease 2019 (COVID-19) in the Eastern District of California and elsewhere, making the following findings and orders:

WHEREAS on March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, H.R. 748 (the “Act”), into law;

WHEREAS on March 29, 2020, pursuant to Sections 15002(b)(1) and 15002(b)(2)(A) of the Act, the Judicial Conference of the United States found 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 affected and will materially affect the functioning of the federal courts generally;

WHEREAS, this court has previously issued General Order Nos. 610, 611, 612, 613, 614, 615, 616, 617, 618, 620, 621 and 624 making findings and implementing temporary emergency procedures in response to the COVID–19 crisis, and these General Orders either remain in effect or have been superseded by a subsequent General Order extending their provisions, with General Order 624 having expired on December 29, 2020;

WHEREAS, for the reasons previously set forth in all of those prior orders, I specifically 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 generally still cannot be conducted in person in this district without seriously jeopardizing public health and safety;

WHEREAS, the court has been able to address many infrastructural and technological limitations both within the court system, the various jails in the district housing federal detainees, and the Bureau of Prisons, making videoconferencing often reasonably available to conduct most if not all criminal hearings in the Eastern District of California, if all parties have secure connections to the internet, and telephone conferencing is almost always reasonably available as an alternative;

As Chief Judge, under the authority granted by Section 15002(b)(1) of the CARES Act, I hereby order as follows:

(1) I hereby authorize the use of videoconferencing, or telephone conferencing if videoconference is not reasonably available, for all events listed in Section 15002(b) of the CARES Act, including:

- a. Detention hearings under 18 U.S.C. § 3142;
- b. Initial appearances under Fed. R. Crim. P. 5;
- c. Preliminary hearings under Fed. R. Crim. P. 5.1;
- d. Waivers of indictment under Fed. R. Crim. P. 7(b);
- e. Arraignments under Fed. R. Crim. P. 10;
- f. Probation and supervised release revocation proceedings under Fed. R. Crim. P. 32.1;
- g. Pretrial release revocation proceedings under 18 U.S.C. § 3148;
- h. Appearances under Fed. R. Crim. P. 40;
- i. Misdemeanor pleas and sentencings as described in Fed. R. Crim. P. 43(b)(2); and

j. Proceedings under 18 U.S.C. ch. 403 (the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

(2) If a judge in an individual case finds, for specific reasons, that a felony plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice, the judge may, with the consent of the defendant after consultation with counsel, use videoconferencing, or teleconferencing if videoconferencing is not reasonably available, for the felony plea or sentencing in that case. The defendant’s consent may be obtained on the record at the time of the relevant event and need not be in writing.

(3) As provided by Section 15002(b)(3) of the CARES Act, the authorization provided in this order will continue to remain in effect for another 90 days unless terminated earlier. If emergency conditions continue to exist 90 days from the entry of this order, I will again review this authorization and determine whether to extend it.

IT IS SO ORDERED.

DATED: January 4, 2021.

FOR THE COURT:



CHIEF UNITED STATES DISTRICT JUDGE