

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:
CORONAVIRUS/COVID-19 PANDEMIC

**ADMINISTRATIVE ORDER
NO. 2020-13-1**

AUTHORIZATION TO CONTINUE THE USE OF
VIDEOCONFERENCING OR TELEPHONE
CONFERENCING IN CRIMINAL MATTERS

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ROSLYNN R. MAUSKOPF, Chief Judge.

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 pursuant to 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 (“CARES Act”), which 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, the Judicial Conference of the United States made the appropriate findings as required under the CARES Act, finding specifically 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 the Coronavirus Disease 2019 (COVID-19) have materially affected and will materially affect the functioning of the federal courts generally.”

On March 30, 2020, acting pursuant to § 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, this Court entered Administrative Order 2020-13, making certain findings and authorizing judges of this District to conduct proceedings remotely in accordance with the CARES Act. Administrative Order 2020-13 is incorporated herein by reference. By law, said Administrative Order will expire on June 27, 2020.

Pursuant to the CARES Act and Administrative Order 2020-13, I have reviewed the authorization to conduct proceedings remotely. I find that emergency conditions due to the COVID-19 virus outbreak, and the need to protect public health and safety, continue to materially affect the functioning of the courts within this District. Judges, court staff, attorneys, litigants, defendants, members of the public, and others continue to limit their travel and continue to work remotely in light of local conditions. Mass transit continues to operate on reduced schedules, and concerns about its safe use persist. Many businesses must remain closed, and those that are open have limited public access. Large gatherings are still prohibited;

occupancy of indoor spaces is limited to less than maximum capacity; and social distancing must be employed. Defendants housed at local detention facilities face restrictions on their movement and cannot be produced with regularity. These conditions, among others, make it necessary for the judges in this District to continue to conduct proceedings remotely, by videoconference or teleconference.

The undersigned, as Chief Judge of this Court, hereby concludes, that it remains necessary to invoke the provisions of the CARES Act for an additional ninety (90) days, commencing with the expiration of Administrative Order 2020-13 on June 27, 2020.

Thus, pursuant to the authority granted under § 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, to continue to use video conferencing, or telephone 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.

Pursuant to § 15002(b)(2) of the CARES Act, I further 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 cannot be conducted in person without seriously jeopardizing public health and safety. As a result, if judges in individual cases find, for specific reasons, 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, conduct those proceedings by video conference, or by telephone conference if video conferencing is not reasonably available. This authority extends to equivalent plea, sentencing or disposition proceedings under 18 U.S.C. 403 (commonly referred to as the “Federal Juvenile Delinquency Act.”).

This authorization is effective for ninety (90) days unless earlier terminated. If the emergency persists longer than ninety (90) days, I will review this authorization and determine whether to extend it pursuant to the provisions of the CARES Act. Notwithstanding the foregoing, pursuant to the provisions of the CARES Act, this authority shall terminate on the last day of the covered emergency period or the date on which the Judicial Conference of the United States finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act with respect to the COVID-19 virus outbreak no longer materially affect the functioning of either the Federal courts generally or the courts within this District.

SO ORDERED.

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Dated: Brooklyn, New York
June 25, 2020

ROSLYNN R. MAUSKOPF
Chief Judge