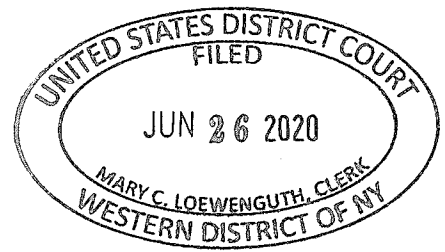


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



VIDEO AND TELECONFERENCING FOR
CRIMINAL PROCEEDINGS UNDER THE
CARES ACT

GENERAL ORDER

WHEREAS, 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.*);

WHEREAS, 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 use of video or audio conference to conduct certain criminal proceedings;

WHEREAS, the President signed the CARES Act into law on March 27, 2020;

WHEREAS, 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 continue to exist 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 and those emergency conditions have materially affected and will materially affect the functioning of the federal courts generally;

WHEREAS, on March 30, 2020, the Court issued a General Order permitting the judges in this District to use video or telephonic video conferencing in certain criminal proceedings, as set forth in the CARES Act, for a period of ninety (90) days;

WHEREAS, the March 30, 2020 General Order requires the Court to review the situation after ninety (90) days to determine whether to extend the video and telephonic conferencing

authority;

WHEREAS, the March 30, 2020 General Order will expire on June 27, 2020;

WHEREAS, acting pursuant to Section 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, as Chief Judge, I find that emergency conditions continue to exist due to the COVID-19 outbreak and that those conditions continue to materially affect the functioning of the courts within this District;

WHEREAS, pursuant to Section 15002(b)(2) of the CARES Act, as Chief Judge, 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 on a regular basis in person without seriously jeopardizing public health and safety.

IT IS HEREBY ORDERED that, pursuant to the authority granted under Section 15002(b)(1) of the CARES Act, judges in this District, with the consent of the defendant or the juvenile after consultation with counsel, are authorized 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; 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;

IT IS FURTHER ORDERED that if a judge in an individual case finds, for specific reasons, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, the judge may, with the consent of the defendant or the juvenile after consultation with counsel, conduct those proceedings by video conference, or by telephonic conference if video conferencing is not reasonably available. Under Section 15002(b)(2)(B) of the CARES Act, 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.”);

IT IS FURTHER ORDERED that, pursuant to Section 15002(b)(3) of the CARES Act, and based upon the fact that the COVID-19 Pandemic continues and has not been abated, this authorization is effective for an additional ninety (90) days, commencing with the expiration of the Court’s March 30, 2020 General Order on June 27, 2020, and expiring on September 25, 2020, unless earlier terminated. If the emergency persists longer than ninety (90) days, I will review the

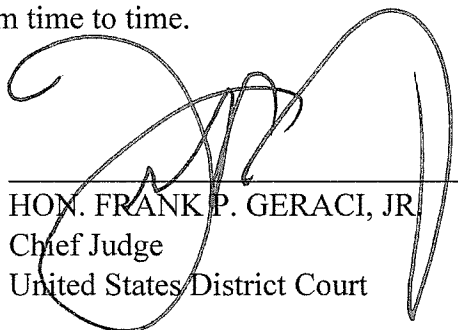
situation for a possible extension of authority pursuant to the provisions of the CARES Act;

IT IS FURTHER ORDERED that, notwithstanding the foregoing, pursuant to Section 15002(b)(3) 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 outbreak no longer materially affect the functioning of either the Federal courts generally or the courts within this District;

IT IS FURTHER ORDERED that, given the above video and teleconferencing provisions, a video or teleconference line will be available to members of the public and the media, to the extent practicable. A note will appear on each case's individual docket on PACER and dial-in instructions can be obtained by calling the judge's Chambers directly. Further instructions can be found on the court's website or by calling the Clerk's Office. Members of the public and media may listen to the proceedings but may not participate in them. Members of the public and media are strictly prohibited from recording or broadcasting any hearing, in whole or in part, in any fashion. *See* Local R. Crim. P. 53; Local R. Civ. P. 83.5. Failure to comply with the above restriction on recording or broadcasting may result in a contempt finding. Further restrictions are set forth on the court's website and may change from time to time.

IT IS SO ORDERED.

Dated: June 26, 2020
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court