

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: UPDATED GUIDANCE TO COURT OPERATIONS
UNDER THE EXIGENT CIRCUMSTANCES CREATED BY
COVID-19

GENERAL ORDER
No. 38

WHEREAS, the Court has issued a series of General Orders re: Court Operations Under the Exigent Circumstances Created by COVID-19, which are available on the Court's website at www.mnd.uscourts.gov.

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency in response to COVID-19 and on February 26, 2021, the President published formal notice in the Federal Register continuing the national emergency concerning the COVID-19 pandemic.

WHEREAS, on March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, which includes provisions for the Judiciary, allowing videoconferencing or telephone conferencing for certain criminal proceedings.

WHEREAS, on March 29, 2020, the Judicial Conference of the United States Court found under 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.

WHEREAS, with the ongoing national emergency, the Judicial Conference's finding of emergency conditions remains in effect and the authorization for the expanded use of video and telephone conferencing under the CARES Act remains available to courts still affected by the pandemic.

WHEREAS, on June 17, 2022, this Court issued a General Order that extended the authorization in the CARES Act to allow videoconferencing or telephone conferencing of certain criminal proceedings for a period of 90 days, effective June 19, 2022.

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KATE M. FOGARTY
JUDGMENT ENTD
DEPUTY CLERK KOA

WHEREAS, under section 15002(b)(3) of the CARES Act, on the date that is 90 days after the date on which an authorization for the use of videoconferencing or telephone conferencing is issued, the Chief Judge of the U.S. District Court of the District of Minnesota must review the authorization and determine whether to extend the authorization.

NOW THEREFORE, to continue to implement the authorization of the CARES Act to allow videoconferencing or telephone conferencing of certain criminal proceedings, provide additional measures to protect Court personnel, the bar, the public, and to ensure due process, **IT IS HEREBY ORDERED**, that:

1. The Chief Judge of the U.S. District Court of the District of Minnesota has reviewed the authorization in the CARES Act that allowed for videoconferencing or telephone conferencing of certain criminal proceedings for a period of 90 days, which ends in the District of Minnesota on September 17, 2022. Because the emergency created by the COVID-19 outbreak continues to affect the functioning of court operations in the District of Minnesota, the Chief Judge is extending the authorization in the CARES Act for another 90-day period.
2. The Chief Judge of the U.S. District Court of the District of Minnesota on his own motion continues to authorize the use of videoconferencing, or telephone conferencing if videoconferencing is not reasonably available, with the consent of the defendant, or the juvenile, after consultation with counsel, 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.
3. The Chief Judge of the U.S. District Court of the District of Minnesota on his own motion continues to 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 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 video conferencing, or teleconferencing if video conferencing is not reasonably available, for the felony plea or sentencing in that case. Judges may also use this authority for equivalent events in juvenile cases as described in the CARES Act in section 15002(b)(2)(B).
4. In order to hold a proceeding by telephone conference, as authorized in paragraphs 2 and 3 of this order, the presiding judge must make a finding that videoconferencing is not reasonably available.
5. Under section 15002(b)(3) of the CARES Act, the authorization in paragraphs 2 and 3 of this Order will remain in effect for 90 days from the date this order takes effect, unless terminated earlier. If emergency conditions continue to exist 90 days from the date this order takes effect, the Chief Judge of the U.S. District Court of the District of Minnesota will review this authorization and determine whether to extend it.

6. When this order takes effect, it vacates General Order No. 37, entered on June 17, 2022.
7. This order takes effect on September 17, 2022 and will remain in effect until further order of the Court.

Dated in Minneapolis, Minnesota, on, *September 14* 2022 at *3:00* p.m.



RATRICK J. SCHILTZ
Chief Judge
United States District Court