

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Findings of the Chief Judge and :
Order Re-Authorizing the Use of : **THIRD AMENDED**
Video and Teleconference : **STANDING ORDER**
Technology in Certain Criminal :
Proceedings :

WHEREAS, on March 13, 2020, a national emergency was declared under the National Emergency Act, 50 U.S.C. § 1601, *et seq.*, in light of the COVID-19 pandemic;

WHEREAS, on March 27, 2020, Congress passed legislation authorizing the use of video and telephone conferencing, under certain circumstances and with the consent of the defendant, for various criminal case events during the course of the COVID-19 emergency, *see* Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), P.L.116-136, H.R. 748;

WHEREAS, on March 29, 2020, the Judicial Conference of the United States found that emergency conditions due to the national emergency declared by the President have affected and will materially affect the functioning of the federal courts generally;

WHEREAS, on April 1, 2020, June 25, 2020, and September 27, 2020, acting pursuant to the CARES Act, I, as Chief Judge, made findings and authorized the use of video and telephone conferencing for all events listed in Section 15002(b)(1) of the legislation;

WHEREAS, the September 27, 2020 re-authorization will, without further action from the Court, expire after 90 days (i.e., on December 26, 2020);

NOW, THEREFORE, IT IS HEREBY ORDERED that, as Chief Judge, and pursuant to Section 15002(b)(1) of the legislation, I hereby re-authorize the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, for all events listed in

Section 15002(b) of the legislation, that is:

- Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;
- Detention hearings under section 3142 of title 18, United States Code;
- Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
- Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- Pretrial release revocation proceedings under section 3148 of title 18, United States Code;
- Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and
- Proceedings under chapter 403 of title 18, United States Code (the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

Pursuant to Section 15002(b)(2), 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 regularly be conducted in person in this District 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 Section 15002(b)(2)(B). Notwithstanding these findings, a judge in an individual case may determine that for reasons specific to that case or to a particular defendant, a criminal proceeding should be held in the courtroom, taking appropriate precautions.

IT IS FURTHER ORDERED that, pursuant to Section 15002(b)(3) of the legislation, this re-authorization is effective beginning on December 26, 2020, and will remain in effect for up to 90 days (i.e., through March 25, 2021), unless terminated earlier. If emergency conditions continue to exist at that time, I will review this authorization and determine whether to extend it.

/s/ Leonard P. Stark

December 21, 2020

Chief, United States District Judge