

November 29, 2021

At: 2:38 p.m.

William T. Walsh

Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE: VIDEO CONFERENCING AND :  
TELECONFERENCING FOR CRIMINAL : **THIRD EXTENSION OF**  
PROCEEDINGS UNDER THE CARES ACT : **STANDING ORDER 2021-03**

**WHEREAS**, due to the continuing COVID-19 pandemic, the National Emergency, first declared on March 13, 2020, remains in effect, as does the national public health emergency, renewed again by the federal government on October 18, 2021; and

**WHEREAS**, on March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), 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 The CARES Act, H.R. 748, pursuant to certain findings by the Judicial Conference of the United States; and

**WHEREAS**, on March 29, 2020, the Judicial Conference found that emergency conditions, consistent with the national emergency declared with respect to COVID-19, will materially affect the functioning of the federal courts (“Judicial Conference’s finding”), and the Judicial Conference has not terminated that finding; and

**WHEREAS**, as Chief Judge, I found, on March 30, 2020, June 28, 2020, September 23, 2020, December 17, 2020, March 11, 2021, June 9, 2021, and September 2, 2021, pursuant to Sections 15002(b)(1) and (b)(2) of the CARES Act, that criminal proceedings, and specifically, felony pleas and felony sentencings, could not be conducted in person without seriously jeopardizing public health and safety, and therefore entered Orders authorizing the use of video and telephone conferencing in criminal proceedings in conformance with the CARES Act (“the Court’s prior CARES Act Orders”); and

**WHEREAS**, pursuant to Section 15002(b)(3) of the CARES Act, this Court’s most recent authorization of the use of video and telephone conferencing in criminal proceedings, in accordance with the CARES Act, set forth in its September 2, 2021 Second Extension of Standing Order 2021-03, is due to be reviewed within 90 days thereof, or by December 1, 2021; and

**WHEREAS**, due to the continued caution warranted under the exigent circumstances of COVID-19, the provisions of this Court’s May 19, 2021 Amended Extension of Standing Order 2021-02, limiting in-person judicial proceedings, in both criminal and civil matters, to those deemed necessary by the presiding judicial officer, remain in full force and effect; and

**WHEREAS**, pursuant to earlier standing orders, this Court’s protocols of temperature taking and hand sanitizing by all entrants to the District’s courthouses, as well as mask wearing in all public areas of Court facilities by entrants and occupants thereof, regardless of vaccination status, remain in place; and

**WHEREAS**, since the entry of the Court's most recent CARES Act Order, it has been necessary, due to the ongoing pandemic, for the Court to also adopt a policy of requiring visitors to its facilities to show proof of either full vaccination or negative COVID-19 test results as a condition of access, through the entry of Standing Order 2021-08, on September 13, 2021; and

**WHEREAS**, while approximately 68% of the population of the State of New Jersey has been fully vaccinated against COVID-19, the statewide transmission rate is currently 1.18%, and the incidence of new COVID-19 cases has been rising in New Jersey since the end of October 2021, with almost 29,000 new cases having been reported in the State during the last two weeks, and also, while new infections are concentrated among unvaccinated individuals, breakthrough cases among the vaccinated population have recently become more common; and

**WHEREAS**, during the prior week, a new strain of the virus which can be spread among fully vaccinated persons, Omicron, was discovered, and the virulence of Omicron and the efficacy against it of current FDA-approved vaccines and boosters have yet to be determined; and

**WHEREAS**, health experts stress that continued precautions and vigilance are necessary, due to expected colder winter weather and concomitant increased indoor gatherings, particularly during the upcoming holidays, and due to the uncertainty of waning vaccine efficacy, and the effects of Omicron and other potential variants of the virus; and

**WHEREAS**, even the most optimistic epidemiological models are predicting that the United States will not return to the low transmission levels of July 2021 until March of 2022; and

**WHEREAS**, as Chief Judge, I find, therefore, that there are still enhanced risks of in-person proceedings to defendants, the population of detention centers, and to court participants, as well as limited in-person meetings with legal counsel; and

**WHEREAS**, the afore-mentioned national emergency declaration and the Judicial Conference's finding remain in effect; and

**WHEREAS**, I further find that the afore-mentioned enhanced risks and conditions are expected to exist for all or substantially all of the period of time covered by this Order, and that video and teleconference proceedings held pursuant to the Court's prior CARES Act Orders have been effective and have substantially furthered the ends of justice and have substantially avoided causing serious harm to the interests of justice, particularly as to the interests of the defendants who have consented to the same; and

**WHEREAS**, I, as Chief Judge, find, pursuant to Section 15002(b)(1) of the CARES Act, that due to the continuing effects of COVID-19, many criminal proceedings still cannot be conducted in person without seriously jeopardizing public health and safety, and that pursuant to Section 15002(b)(2) of the CARES Act, many felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and many felony sentencing under Rule 32 of the Federal Rules of Criminal Procedure also cannot be conducted in person in this Court without seriously jeopardizing public health and safety; it is hereby

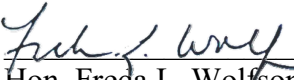
**ORDERED**, pursuant to Section 15002(b)(3) of the CARES Act, that the authorization in the Court's prior CARES Act Orders of the use of video and telephone conferencing in criminal proceedings is further extended for an additional 90 days from the date of this Order, unless this Order is terminated or vacated prior to such date according to the procedures set forth in the last paragraph of this Order; and it is further

**ORDERED** that, in lieu of personal appearance, and with the consent of the defendant after consultation with counsel, video conferencing, or telephone conferencing if video conferencing is not reasonably available, is continued to be authorized for all events listed in Section 15002(b) of the CARES Act, including the ten criminal proceedings enumerated in the Second Extension of Amended Standing Order 2020-06; and it is further

**ORDERED** that if a judge in an individual case finds, for specific reasons, that any felony plea or felony sentencing, or any equivalent plea and sentencing, as well as proceedings under the Federal Juvenile Delinquency Act, cannot be further delayed without serious harm to the interests of justice, then, with the consent of the defendant, or the juvenile, after consultation with counsel, the plea, sentencing or any equivalent proceeding, may be conducted by video conference, or by telephone conference if video conferencing is not reasonably available; and it is further

**ORDERED** that if, 90 days from the date of this Order, the emergency declaration remains in effect, along with the Judicial Conference's finding that the emergency conditions will materially affect the functioning of the federal courts, the Chief Judge shall review the authorization described in this Order and determine whether it shall be further extended. Pursuant to Section 15002(b)(3)(A) of the CARES Act, such review will occur at least once every 90 days, until the last day of the covered emergency period, or until the Chief Judge determines that the authorization is no longer warranted. Should the above-referenced emergency declaration or the Judicial Conference's finding terminate or be revoked prior to the expiration of 90 days from the date of this Order, then this Order may then be vacated according to law.

DATED: November 29, 2021

  
Hon. Freda L. Wolfson  
U.S. Chief District Judge  
District of New Jersey