

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGIAN

In re: SECOND REAUTHORIZATION IMPLEMENTING
SECTION 15000(b)(1) OF THE CARES ACT

Administrative Order
No. 20-MS-074

1. On Friday, March 27, 2020, Congress passed and the President signed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). Section 15000(b)(1) of the CARES Act authorizes use of video conferencing or telephone conferencing for certain criminal pre-trial hearings during the Covid-19 emergency declared by the President. The use of such means requires predicate findings by the President and the Judicial Conference of the United States; must be reviewed and re-authorized every 90 days; may not last beyond the declared emergency; and may be used only if the defendant consents after consultation with counsel.
2. The President and the Judicial Conference of the United State have made the required predicate findings. In particular, the President has declared a Covid-19 emergency under the National Emergencies Act, and the Judicial Conference has determined that this emergency will materially affect the functioning of the Federal courts generally.
3. On April 10, 2020, under the authority of Section 15000(b)(1) of the CARES Act, in my capacity as Chief District Judge of the Western District of Michigan, I authorized the use of video teleconferencing, or telephone conferencing if video teleconference is not reasonably available, for the following criminal pre-trial events only, and only with the defendant’s consent after consultation with counsel, and for no longer than authorized by the Act:
 - (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.

4. Under the CARES Act, ninety days after implementation of the authorizations described in paragraph 3, the Chief Judge must “review the authorization and determine whether to extend the authorization.” § 15002(b)(3)(A). On June 29, 2020, I signed Administrative Order 20-MS-049 extending the authorization for 90 days commencing July 9, 2020. I have again reviewed the authorization and determined, after consultation with the full bench, to extend the authorization another 90 days. Now therefore, under the authority of Section 15002(b)(1)-(3) of the CARES Act, in my capacity as Chief Judge of the Western District of Michigan, I reauthorize the use of video teleconferencing, or telephone conferencing if video teleconference is not reasonably available, for the criminal pre-trial events set forth in paragraph 3 of this Administrative Order, and only with the defendant’s consent after consultation with counsel, and for no longer than authorized by the Act.
5. Nothing in this Administrative Order requires any Judicial Officer in the District to use video or audio telephone. Nothing in this Administrative Order requires any Judicial Officer in the District to use video or audio telephone conferencing capability for these events. Each Judicial Officer will decide whether to do so, or not, in any given case for any particular proceeding, subject in all such matters to the limits of the CARES Act, this Administrative Order and other applicable court rules and law.
6. Nothing in this Administrative Order is intended to limit the authority any judicial officer had before enactment of the CARES Act to conduct hearings by videoconference consistent with all applicable court rules and law. In particular, a judicial officer may continue in his or her discretion to conduct a Rule 5 initial appearances by videoconference with a defendant’s consent under Rule 5(f) even before appointment or appearance of counsel.
7. This reauthorization will take effect October 7, 2020, which is the 91st day following entry of the reauthorization implementing Order.

Dated: September 30, 2020



ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE