## UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA

IN RE: COURT OPERATIONS
IN RESPONSE TO COVID-19

Standing Order Regarding Video Teleconferencing and Telephone Conferencing Misc. Number: 3:20-mc-129-RBH

Congress has passed legislation authorizing the use of video teleconferencing 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. The Judicial Conference of the United States has also 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.

As Chief Judge, and pursuant to Section 15002(b)(1) of the legislation, on my own motion, I hereby authorize the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, for all events listed in Section 15002(b)(1) of the legislation.<sup>1</sup>

Section 15002(b)(1) includes:

<sup>(</sup>A) Detention hearings under section 3142 of title 18, United States Code.

<sup>(</sup>B) Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure.

<sup>(</sup>C) Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure.

<sup>(</sup>D) Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure.

<sup>(</sup>E) Arraignments under Rule 10 of the Federal Rules of Criminal Procedure.

<sup>(</sup>F) Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure.

<sup>(</sup>G) Pretrial release revocation proceedings under section 3148 of title 18, United States Code.

<sup>(</sup>H) Appearances under Rule 40 of the Federal Rules of Criminal Procedure.

<sup>(</sup>I) Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure.

<sup>(</sup>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.

Pursuant to Section 15002(b)(2), I, as Chief Judge, on my own motion, 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 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 teleconferencing, or telephone conferencing if video teleconferencing 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).

Pursuant to Section 15002(b)(4), video teleconferencing or telephone conferencing authorized under paragraph (b)(1) or (b)(2) may only take place with the consent of the defendant, or the juvenile, after consultation with counsel.

Pursuant to Section 15002(b)(3) of the legislation, this authorization will remain in effect for 90 days unless terminated earlier. If emergency conditions continue to exist 90 days from the entry of this order, I will review this authorization and determine whether to extend it.

IT IS SO ORDERED.

April <u></u>, 2020

Florence, South Carolina

R. Bryan Harwell

Chief United States District Judge