

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

IN RE: VIDEO CONFERENCING AND :
TELECONFERENCING FOR CRIMINAL : **FOURTH 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 and extended on February 24, 2021, will be further extended beyond its current March 1, 2022 expiration date, as announced by President Biden on February 18, 2022; and

WHEREAS, the national public health emergency was also renewed again by the federal government on February 11, 2022, in response to the continuing pandemic; 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, September 2, 2021, and November 29, 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 November 29, 2021, Third Extension of Standing Order 2021-03, is due to be reviewed within 90 days thereof, or by February 27, 2022; and

WHEREAS, despite the recent decline in the Omicron surge, the CDC and local public health authorities still recommend that precautions be taken, particularly with the continued risk of the Omicron variant to vulnerable and unvaccinated persons, including children aged 5 to 11 in New Jersey (of which only one-third have been vaccinated), and even the approximate 50%

of fully vaccinated New Jersey residents who are eligible for, but have not received, a booster; and

WHEREAS, while the Omicron surge is declining in the U.S., infectious disease experts are now concerned about an even more contagious strain of the variant present in the U.S., known as BA.2, that could become the new dominant variant and potentially rapidly accelerate, resulting in more serious illness and death, and therefore, experts warn against rolling back mandates and letting our guard down too soon; and

WHEREAS, accordingly, precautionary measures set forth in the Court's prior Standing Orders remain in effect in this District's courthouses, including mask wearing by all occupants of public areas of Court facilities, and the requirement that visitors show proof of either full vaccination or negative COVID-19 test results as a condition of access; and

WHEREAS, many detainees housed in this District's detention facilities remain unvaccinated and/or unboosted, as do many staff of such facilities and others responsible for facility and Court security; and

WHEREAS, quarantines, lockdowns and other restrictive conditions at said detention facilities, and capacity limitations on transportation to this District's courthouses and holding facilities therein continue to constrain the Court's ability to conduct in-person criminal proceedings; and

WHEREAS, although this Court resumed in-person proceedings on February 1, 2022, due to the continued risk of COVID-19 transmission in detention facilities and the community, it still remains necessary to conduct proceedings remotely when the interests of justice require it;

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 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

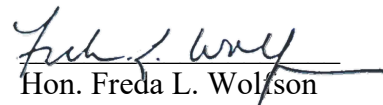
ORDERED, pursuant to Section 15002(b)(3) of the CARES Act, that the authorization in the Court's prior CARES Act Orders of the use of video and telephone conferencing in criminal proceedings is further extended for an additional 90 days from the date of this Order, unless this Order is terminated or 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 or 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.

February 23, 2022


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