

DEC 18 2020

TONY R. MOORE, CLERK

BY  DEPUTY

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

**TWELFTH SUPPLEMENTAL ORDER REGARDING
COURT OPERATIONS UNDER THE EXIGENT CIRCUMSTANCES
CREATED BY THE COVID-19 PANDEMIC**

On March 30, 2020, this Court entered an original Order in compliance with the CARES Act in response to the exigent circumstances created by the COVID-19 pandemic and issued an Order regarding the use of video and telephone conferencing under certain circumstances in criminal proceedings. Also, in compliance with the CARES Act, and due to the expiration of the original Order on June 28, 2020, the undersigned Chief Judge determined the exigent circumstances continued to exist and issued two supplemental orders extending the use of video and telephone conferencing in compliance with the CARES Act. The undersigned Chief Judge has determined the exigent circumstances continue to exist and finds that continued authorization is warranted. The use of video and telephone conferencing is hereby extended, for a third time and is applicable under certain circumstances in criminal proceedings, in light of the following:

This Order, being the third extension of the original order is issued in response to the continued outbreak of the Coronavirus Disease (COVID-19) in the United States, the State of Louisiana and specifically the Western District of

Louisiana. The World Health Organization has previously declared that COVID-19 qualifies as a global pandemic, having spread across more than 190 countries and territories with more than sixteen million (16,000,000) confirmed cases in the United States and over two hundred seventy-five thousand cases (275,000) in Louisiana, as of the date of this order.

The President of the United States and the Governor of the State of Louisiana have declared a public health emergency throughout the country and the State, all in response to the spread of COVID-19.

The Centers for Disease Control and Prevention (CDC) and other public health authorities have recommended social distancing as a means of limiting further community spread of COVID-19.

The State of Louisiana has issued various orders directing all Louisiana residents to shelter at home and limit movements outside of their homes beyond essential needs. The State of Louisiana has reverted from “Phase III Reopening” to “Phase II Reopening” as of the date of this order. Governor John Bel Edwards announced that Louisiana will stay in Phase II, as the number of COVID-19 cases and related hospitalizations have started to rise in several regions across the state.

Congress has passed and the President has signed into law the CARES Act, which authorizes the use of video and telephone conferencing, under certain circumstances and with the consent of the defendant after consultation with counsel, for various criminal matters during the course of the COVID-19 health emergency.

The CARES Act conditions the availability of these emergency procedures on a finding by the Judicial Conference of the United States (JCUS) that “emergency conditions due to the national emergency declared by the President” will “materially affect the functioning of either the Federal courts generally or a particular district court of the United States.” The JCUS has previously found that emergency conditions exist that materially affect the functioning of the federal courts generally.

Accordingly, to facilitate use of the emergency procedures authorized by the CARES Act, including particularly the use of video and telephone conferencing for various criminal matters during the COVID-19 emergency, and pursuant to the mandate for same specified in the CARES Act, the Chief Judge of the United States District Court for the Western District of Louisiana hereby issues the following order:

1. Considering paragraph 1 of the CARES Act and by act of the undersigned Chief Judge, the Court authorizes the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, for the following events:
 - a. Detention hearings under 18 U.S.C. § 3142.
 - 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 18 U.S.C. § 3148.
 - 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.
2. Considering paragraph 2 of the CARES Act and by act of the undersigned Chief Judge, it is specifically found that felony pleas under Federal Rule of Criminal Procedure 11 and felony sentencings under Rule 32 cannot be conducted in person without seriously

jeopardizing public health and safety. A felony plea or sentencing hearing may be held by video conferencing, or by telephone conferencing if video conferencing is not reasonably available, where the presiding judge finds, for specific reasons, that the plea or sentencing in a particular case cannot be further delayed without serious harm to the interests of justice.

3. Video teleconferencing or telephone conferencing authorized by this Order may only take place with the written or oral consent of the defendant, or the juvenile, after consultation with counsel. The presiding judge in the case may authorize remote means, including but not limited to participation of defense counsel in a video or telephone conference to facilitate consent of the defendant, or the juvenile. If at all practical, all proceedings by video teleconference or telephone conference shall originate in the judge's courthouse.
4. The public may be permitted to access by video teleconference or telephone conference at the discretion of the presiding judge, any such hearing provided for in this Order by submitting a request to the chambers of the presiding judge. Members of the public and the media are strictly prohibited from recording or broadcasting any hearing, in whole or in part, in any manner. Violation of this Order may constitute a civil or criminal contempt of court, punishable by a fine and/or confinement.
5. The transcript in any case certified by the reporter or other individual designated to produce the record shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record pursuant to 28 U.S.C. § 753(b).


The public is encouraged to use online Court resources or contact the Court by telephone with any questions. The Court's web address is: <http://www.lawd.uscourts.gov>.

This order shall remain in effect until further order of the Chief Judge of this

Court. If this order is not terminated within 90 days of issuance, the Chief Judge will review the authorization and determine whether and how long to extend the authorization.

IT IS SO ORDERED, effective December 23, 2020.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 18th day of December, 2020.



S. MAURICE HICKS, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA