

IN THE
UNITED STATES DISTRICT COURT
IN AND FOR
THE EASTERN DISTRICT OF TEXAS

GENERAL ORDER REGARDING EMERGENCY PROCEDURES
AUTHORIZED BY THE CORONAVIRUS AID, RELIEF, AND
ECONOMIC SECURITY ACT, H.R. 748, P.L.116-136, 134 Stat. 281,
(CARES ACT) INCLUDING THE USE OF VIDEO AND TELEPHONE
CONFERENCE FOR VARIOUS CRIMINAL EVENTS DURING THE
COVID-19 EMERGENCY

This order is being issued in response to the recent outbreak of the Coronavirus Disease (COVID-19) generally in the United States and particularly in the State of Texas. The World Health Organization has declared that COVID-19 is a global pandemic, having spread across more than 190 countries and territories with more than 100,000 confirmed cases in the United States.

The President of the United States and Governor of the State of Texas have declared a public health emergency throughout the nation and state, respectively, in response to the spread of COVID-19; and

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, and these recommendations have been implemented nationally through presidential order; and

Multiple Counties within this District and the State of Texas have issued a Stay at Home Orders directing all impacted residents to shelter at home and limit movements

outside of their homes beyond essential needs;

Congress has passed and the President has signed into law THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, H.R. 748, P.L.116-136, 134 Stat. 281 (herein the: CARES Act), which authorizes the use of video and telephone conferencing, under certain circumstances and with the consent of the defendant, for various criminal proceedings during the course of the COVID-19 emergency;

This Court has previously issued the following: General Order 20-03 entitled Court Operations Under Exigent Circumstances Created by the COVID-19 Pandemic, General Order 20-04 entitled COVID-19 Targeted Visitor Restrictions, and General Order 20-05 entitled COVID-19 District Court Procedure for Parties Not Represented by an Attorney.

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 adopted a finding 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 Proceedings during the COVID-19 emergency, and pursuant to the mandate for same specified in the CARES Act, the undersigned, acting as Chief Judge of the United States District Court for the Eastern District of Texas, hereby issues the following order:

1. Considering and implementing 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 proceedings:

- 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 sentencing 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 and implementing 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 sentencing 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 any portion of this Order may only take place with the consent of the defendant, or the juvenile, after consultation with counsel.
 4. The public may be permitted to access any such hearings 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 fashion.
 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

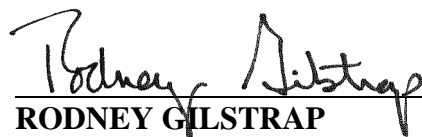
testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record pursuant to 28 U.S.C. § 753(b).

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

This order will remain in effect until further order of the Court. If this order is not terminated by subsequent order of the Court within 90 days of issuance, the Court will then review the authorizations set forth herein and determine whether or not to extend the authorizations herein and this order; however, until such time as a subsequent order of the Court is entered which terminates or modifies this order, this order shall remain in full force and effect.

FOR THE COURT:

SO ORDERED and SIGNED this 30th day of March, 2020.



**RODNEY GILSTRAP
CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**