

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN RE: The National Emergency
Declared on March 13, 2020

GENERAL ORDER NUMBER 2020-11
EXTENDING THE AUTHORIZATION OF THE USE OF VIDEO AND AUDIO
TO CONDUCT CRIMINAL PROCEEDINGS

On March 13, 2020, the President of the United States declared a national emergency as a result of the Coronavirus Disease 2019 (COVID-19) pandemic. Congress subsequently passed the Coronavirus Aid, Relief, and Economic Security Act, H.R. 748 (the CARES Act) which was signed into law by the President. This Act authorizes the use of both video and telephone conferencing to conduct various criminal case events under certain circumstances.

On March 27, 2020, the Judicial Conference of the United States determined that emergency conditions, due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. § 1601 *et seq.*), with respect to COVID-19 have materially affected and will materially affect the functioning of the federal courts generally.

The CARES Act authorizes this Court, on its own motion, or upon

application of the Attorney General of the United States or his designee, to authorize the use of video teleconferencing, or audio teleconferencing if video teleconferencing is not reasonably available, for the following criminal case events (Events):

(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.

The CARES Act conditions the authorization of the use of video teleconferencing, or audio teleconferencing if video teleconferencing is not reasonably available, for these Events upon the consent of the Defendant.

The CARES Act further authorizes this Court, on its own motion, or upon application of the Attorney General of the United States or his designee, to authorize the use of video teleconferencing, or audio teleconferencing if video teleconferencing is not reasonably available, to conduct felony plea proceedings under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure. The CARES Act conditions this authorization, however, upon this Court specifically finding that these particular proceedings cannot be conducted in person without seriously jeopardizing public health and safety. The CARES Act also conditions

this authorization upon the district judge in each particular case finding, for specific reasons, that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice. Finally, the CARES Act requires the consent of the Defendant.

Currently, there are more than 118,000 confirmed cases of COVID-19 in Alabama.

On March 30, 2020, this Court entered General Order 2020-03 authorizing the use of video teleconferencing, or audio teleconferencing if video teleconferencing is not reasonably available, to conduct all of the criminal case events described in the foregoing paragraphs with the consent of the Defendant. That Order further found that felony plea proceedings under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure could not be conducted in person, in this district, without seriously jeopardizing public health and safety. As such, the Order provided that in the event the district judge in a particular case finds for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice, and the Defendant consents, that proceeding could be conducted by the use of video teleconferencing, or audio teleconferencing if video

teleconferencing is not reasonably available. That authority was further extended to similar hearings under the Federal Juvenile Delinquency Act, 18 U.S.C. § 403.

The above-referenced Order was extended for an additional ninety (90) days on the 18th day of June 2020 [Gen. Order 2020-10] but would terminate automatically either on the last day of the national emergency that was declared by the President on March 13, 2020 or the day on which the Judicial Conference of the United States determines that the emergency no longer materially affects the United States courts or this district, whichever occurred first.

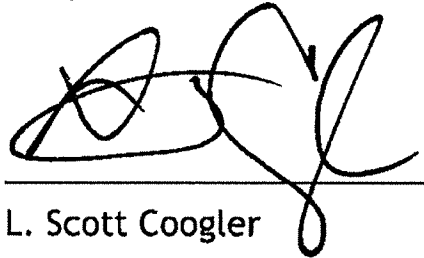
The national emergency that was declared by the President on March 13, 2020, continues in effect; the Judicial Conference of the United States has not determined that the emergency no longer materially affects the United States courts or this district; and this Court does hereby find that General Order 2020-03 as previously extended by General Order 2020-10 is due to be extended for an additional ninety (90) days.

THEREFORE, IT IS HEREBY ORDERED that General Order 2020-03 as previously extended by General Order 2020-10 is extended for an additional ninety (90) days and will then terminate unless otherwise

extended by further Order. In addition, the Order will terminate automatically either on the last day of the national emergency that was declared by the President on March 13, 2020 or the day on which the Judicial Conference of the United States determines that the emergency no longer materially affects the United States courts or this district, whichever occurs first.

To the extent inconsistent with this Order, any order in this district is hereby **SUPERSEDED**.

IT IS SO ORDERED on the 8th day of September, 2020.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

L. Scott Coogler
Chief U.S. District Judge
Northern District of Alabama