

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
21-SO-3

FILED

MAR - 8 2021

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY DEP CLK

IN RE:)
VIDEO CONFERENCING FOR)
CRIMINAL PROCEEDINGS UNDER)
THE CARES ACT AND IN LIGHT OF)
THE COVID-19 PANDEMIC)

SUPPLEMENTAL
STANDING ORDER

On March 27, 2020, Congress passed legislation 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, pursuant to certain findings by the Judicial Conference of the United States. *See* CARES Act, H.R. 748, Pub. L. No. 116-136. On March 29, 2020, the Judicial Conference 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.

On March 31, 2020, as Chief Judge of the United States District Court for the Eastern District of North Carolina, the Honorable Terrence W. Boyle authorized the use in this district of video teleconferencing, or telephonic conference if videoconferencing is not reasonably available, for all events listed in Section 15002(b)(1)(A)-(J) of the Act. *See* Standing Order 20-SO-7. Judge Boyle further found 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 could not be conducted in person in this district without seriously jeopardizing public health and safety, and he authorized video and telephone conferencing in felony plea and sentencing proceedings in conformance with the CARES Act. Judge Boyle further ordered, pursuant to Section 15002(b)(3) of the CARES Act, that the aforementioned authorization would remain in effect for up to 90 days,

or June 29, 2020, and if emergency conditions continued to exist, the judge would determine whether the authorization would be extended.

On June 29, 2020, Judge Boyle extended the authorization for conducting video and telephone conference proceedings for all events listed in Section 15002(b)(1)(A)-(J) with the consent of the defendant or juvenile. *See* Standing Order 20-SO-9. On July 13, 2020, based on changed circumstances in this district, Judge Boyle further found 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 could not in some cases in this district be conducted in person without seriously jeopardizing public health and safety. *See* Revised Standing Order 20-SO-9-1. Accordingly, Judge Boyle extended the authorization for conducting video and telephone conference proceedings in felony plea and sentencing proceedings in accordance with the CARES Act. *Id.* Judge Boyle ordered that the extended authorization would remain in effect for up to 90 days from June 29, 2020, and if emergency conditions continued to exist, he would determine whether the authorization would be extended.

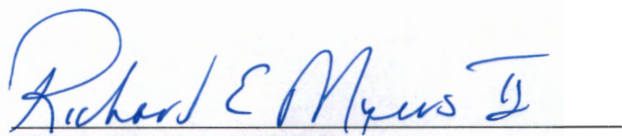
Thereafter, on September 17, 2020 and, again, on December 8, 2020, Judge Boyle extended the authorization for conducting video and telephone conference proceedings for all events listed in Section 15002(b)(1)(A)-(J) of the Act with the consent of the defendant or juvenile. *See* Standing Orders 20-SO-11, 20-SO-13. He also extended the authorization for conducting video and teleconference proceedings in felony plea and sentencing proceedings in accordance with the CARES Act. *Id.* Judge Boyle ordered that the extended authorization would remain in effect for up to 90 days from the date of the order, unless emergency conditions ceased to exist or he otherwise terminated the authorization; if emergency conditions continued to exist, the judge would determine whether the authorization would be extended. *Id.*

On February 24, 2021, President Biden issued a Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic, stating “the national emergency declared on March 13, 2020, and beginning March 1, 2020, must continue in effect beyond March 1, 2021.” Concurrently, the Judicial Conference finding remains in effect. In addition, there are currently at least 879,825 confirmed cases of COVID-19 within the State of North Carolina. Due to the impact of the COVID-19 pandemic, the court is at times unable to use some of its locations. As a result, emergency conditions due to the COVID-19 virus have affected and will continue to materially affect the functioning of the courts within this judicial district. Accordingly, pursuant to Section 15002(b)(1) of the CARES Act, I hereby extend the authorization for the use in this district of video teleconferencing, or telephonic conference if videoconferencing is not reasonably available, for all events listed in Section 15002(b)(1). Such proceedings may be conducted via video or telephone conference only with the consent of the defendant or juvenile after consultation with counsel.

Pursuant to Section 15002(b)(2) of the CARES Act, I further 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 in some cases in this district be conducted in person without seriously jeopardizing public health and safety. Accordingly, 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 conferencing, or teleconferencing if video conferencing 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)(3) of the CARES Act, this authorization will remain in effect until the earlier of: (1) the date I, as Chief Judge, determine the authorization is no longer warranted; (2) the date on which emergency authority by the Judicial Conference is terminated; (3) the date the authorization has been terminated pursuant to Section 15002(b)(5)(A) of the Cares Act; or (4) 90 days from the date of this order. If this authorization has not been terminated before 90 days from the date of this order, I will continue to review this authorization and determine whether to extend it, in a frequency not to exceed 90 days.

SO ORDERED this 8th day of March, 2021.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE