

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:
THE USE OF VIDEO CONFERENCING
AND TELECONFERENCING IN
CRIMINAL PROCEEDINGS UNDER
THE “CARES ACT,” P.L. 116-136

2:20-mc-466-MRH

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FINDINGS OF THE CHIEF JUDGE AND ADMINISTRATIVE ORDER
REGARDING THE USE OF VIDEO AND TELECONFERENCING TECHNOLOGY
IN CERTAIN CRIMINAL PROCEEDINGS

WHEREAS, on March 13, 2020, the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID–19); and

WHEREAS, on March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), P.L.116-136, vesting certain authority in the Chief Judge of each United States District Court covered by a finding of the Judicial Conference of the United States relative to the impact of COVID-19 on the operations of the Federal courts; and

WHEREAS, on March 29, 2020, the Judicial Conference of the United States found that conditions due to the national emergency declared by the President with respect to COVID–19 will materially affect the functioning of the Federal courts; and

WHEREAS, the undersigned as the Chief Judge of this Court finds that for purposes of the CARES Act, emergency conditions as found by the Judicial Conference of the United States will materially affect the functioning of this Court, and further 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 be conducted in person without seriously jeopardizing public health and safety, more specifically at least because of actual or reasonably likely: (1) enhanced risks to a defendant and others resulting from or attendant to the process of transfer from and to a detention center to/from the Court, (2) enhanced risks to the population of a detention center attendant to the physical participation of a defendant in a proceeding with a number of other participants outside of such detention center followed by return of that defendant to a detention center from outside of the detention center, (3) enhanced risks to proceeding participants attendant to such persons convening in a central physical location after arriving there from disparate locales, and (4) difficulty or inability due to medical privacy laws or otherwise to assess in advance whether any participant in an in-person proceeding is at an enhanced medical risk due to their specific circumstances. Further, in these regards the undersigned has also given due consideration to the reasonable requests made by the Federal Public Defender and CJA Panel Representative for this District that in-person, in-court proceedings be minimized to the extent prudent, reasonably possible and permitted by law in order to mitigate any enhanced risks to the participants in such proceedings; so therefore,

Upon the motion of the undersigned as the Chief Judge of this Court, it is ORDERED by the undersigned in his capacity as the Chief Judge of this Court that video teleconferencing, and/or telephone conferencing if video teleconferencing is not reasonably available either generally or in a specific case, is authorized for use for and in all proceedings pursuant to the terms of Section 15002(b) of the CARES Act, and more specifically as to the following criminal proceedings as set forth in Section 15002(b)(1) of the CARES Act, with the consent of the defendant or the involved juvenile as is required by law and after consultation with counsel:

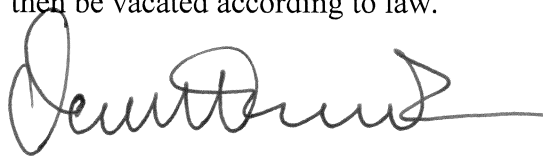
- Detention hearings under section 3142 of title 18, United States Code;

- Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;
- Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
- Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- Pretrial release revocation proceedings under section 3148 of title 18, United States Code;
- Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and
- Proceedings under chapter 403 of title 18, United States Code (the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings; and it is further

ORDERED that pursuant to Section 15002(b)(2) of the CARES Act if the District Judge in a particular case finds for specific reasons that a felony plea under Rule 11 of the Federal Rules of Criminal Procedure, a felony sentencing under Rule 32 of the Federal Rules of Criminal Procedure, or any equivalent plea and sentencing, or disposition 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 as is required by law and after consultation with counsel, the plea, sentencing, or equivalent proceeding may be conducted by video teleconference, and/or by telephone conference if video teleconferencing is not reasonably available generally or in a specific case; and it is further

ORDERED that pursuant to Section 15002(b)(3) of the CARES Act that this Order is in effect for ninety (90) days from the date of its entry, unless it is terminated or vacated prior to such date according to law. If on the date falling ninety (90) days after the date of this Order the President's emergency declaration remains in effect, as does the Judicial Conference's finding that the emergency conditions will materially affect the functioning of the Federal courts, the Chief Judge (or other judicial officer as authorized by P.L. 116-136) shall review the authorization described in this Order and determine whether it shall be extended. Such reviews will occur thereafter not less frequently than once every ninety (90) days until the last day of the covered emergency period or until the Chief Judge (or other authorized judicial officer) determines that the authorization is no longer warranted. Should the declaration of national emergency or the above-referenced finding of the Judicial Conference (or either of them) terminate or be revoked prior to the expiration of ninety (90) days from the date of the Order (or during any extension thereof), then this Order may then be vacated according to law.

Date: March 30, 2020

A handwritten signature in black ink, appearing to read 'Mark R. Hornak', written over a horizontal line.

Mark R. Hornak
Chief United States District Judge