

**United States District Court
District of Maine**

In Re:)
)
COURT OPERATIONS UNDER)
THE EXIGENT CIRCUMSTANCES)
CREATED BY THE COVID-19) GENERAL ORDER 2020-11
CORONAVIRUS & RELATED)
PANDEMIC PRECAUTIONS:)
PROTOCOL FOR SCHEDULING VIDEO)
TELECONFERENCE AND TELEPHONE)
CONFERENCE PROCEEDINGS)

GENERAL ORDER

This General Order is the eleventh order issued in response to the COVID-19 pandemic in accordance with the *Pandemic/Infectious Disease Plan for the United States District Court for the District of Maine (March 2020)*. The Court hereby adopts and incorporates the findings made in the Court’s previous General Orders as to the threat to public health and safety presented by the COVID-19 pandemic. This General Order establishes protocols for the scheduling of video teleconference and telephone conference proceedings.

In consideration of the negative consequences associated with delay in criminal felony plea and sentencings, probation and supervised release revocation proceedings, and in civil proceedings, the following protocols are adopted to expand the availability of video teleconference case conferences and hearings in criminal and civil cases.

A. Criminal Proceedings

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. No. 116-136, 134 Stat. 281 (2020), authorizes the Court to conduct felony plea and sentencing hearings “by video teleconference, or by telephone conference if video teleconferencing is not reasonably available,” if several requirements are met including: (A) the Chief Judge “specifically finds . . . that felony pleas . . . and felony sentencings . . . cannot be conducted in person without seriously jeopardizing public health and safety”; and (B) “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.” *Id.* Section 15002(b)(2)(A) and (B). Section 15002(b)(4) of the CARES Act also requires that video teleconferencing or telephone conferencing “may only take place with the consent of the defendant . . . after

consultation with counsel.” The same standards apply with respect to juvenile proceedings pursuant to Section 15002(b)(2)(B) of the CARES Act. Section 15002(b)(1)(F) of the CARES Act provides that probation and supervised release revocation proceedings may be heard by video teleconference, or by telephone conference if video teleconferencing is not reasonably available, with the consent of the defendant after consultation with counsel.

Accordingly:

1. In all felony plea proceedings, including cases involving waivers of indictment and a plea to an information, felony sentencing proceedings, and in equivalent proceedings involving juveniles, any defendant who consents, after consultation with counsel, to proceed by video teleconference may file a motion requesting permission to proceed by video teleconference. The motion should establish that the defendant has had the opportunity to consult with counsel and consents to proceeding by video teleconference. The motion should also state the reason or reasons why the case cannot be further delayed without serious harm to the interests of justice. The U.S. Attorney must file a response within 3 business days. The response should set forth the Government’s agreement or opposition to the motion, as well as any grounds for opposition. In the event the Government opposes a motion, the defendant shall file a written reply within 2 business days. The District Judge will determine whether to rule on the motion with or without a hearing.

2. In all criminal cases that are ready for trial, the attorney for the defendant may request the Clerk of Court to schedule a video teleconference or telephone conference with the presiding Judge to discuss the status of the case, which may include the topic of whether the case may proceed by video teleconference in the event a disposition other than trial might occur.

3. In all probation and supervised release revocation cases subject to Fed. R. Crim. P. 32.1, any defendant who consents, after consultation with counsel, to proceed by video teleconference may file a motion requesting permission to proceed by video teleconference. The motion should establish that the defendant has had the opportunity to consult with counsel and consents to proceeding by video teleconference. The U.S. Attorney must file a response within 3 business days. The response should set forth the Government’s agreement or opposition to the motion, as well as any grounds for opposition. In the event the Government opposes a motion, the defendant shall file a written reply within 2 business days. The District Judge will determine whether to rule on the motion with or without a hearing.

B. Civil Proceedings

1. In all civil proceedings, counsel may request the Clerk of Court to schedule a conference, hearing or non-jury trial by video teleconference or, as to a conference or hearing, by telephone conference.

This General Order shall remain in effect until further Order of the Court.

SO ORDERED.

Dated: July 30, 2020

/s/ Jon D. Levy
CHIEF U.S. DISTRICT JUDGE