

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**ORDER AUTHORIZING VIDEO AND
TELEPHONIC CONFERENCING PURSUANT
TO THE CARES ACT H.R. 748**

**ADM-1
ORDER 20-12**

ADMINISTRATIVE ORDER

Congress has 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. See CARES Act, H.R. 748. The Judicial Conference of the United States has also 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.

In support of its findings below, the court adopts and incorporates the findings made in Standing Order ADM-1, Order 20-5: Court Operations Under the Exigent Circumstances Created by COVID-19. In addition to those findings, the court further finds that since the first announced case in New Hampshire on March 2, 2020, the state has reported 258 confirmed cases of COVID-19 (this number has grown from 44 on March 20 to the current total of 258 in only ten days). So far, three deaths have been attributed to the disease in this state. Further, in New Hampshire approximately 1,050 people are being monitored for signs of COVID-19 infection, over 3,103 people have been tested, and community-based transmission has been confirmed. Nationally, the number of confirmed cases has grown to over 140,900, with 2,405 cases resulting in death.

Therefore, pursuant to the authority granted to a Chief Judge of a District under § 15002(b)(1) of the CARES Act, I authorize the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, with the consent of the defendant, for all of the following events listed in Section 15002(b)(1) of the legislation:

- (A) Detention hearings under 18 U.S.C. § 3142.
- (B) Initial appearances under Fed. R. Crim. P. 5.
- (C) Preliminary hearings under Fed. R. Crim. P. 5.
- (D) Waivers of indictment under Fed. R. Crim. P. 7(b).
- (E) Arraignments under Fed. R. Crim. P. 10.
- (F) Probation and supervised release revocation proceedings Fed. R. Crim. P. 32.1.
- (G) Pretrial release revocation proceedings under 18 U.S.C. § 3148.
- (H) Appearances under Fed. R. Crim. P. 40.
- (I) Misdemeanor pleas and sentencings as described Fed. R. Crim. P. 43(b)(2).
- (J) Proceedings under 18 U.S.C. §§ 5031-5043 (chapter 403, commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

To the extent these events are not listed in ADM-1, 20-5, they are now included as events that may be conducted by video conferencing or telephone conferencing.

Pursuant to Section 15002(b)(2), I further specifically 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 be conducted in person in this district without seriously jeopardizing public health and safety. As a result, 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).

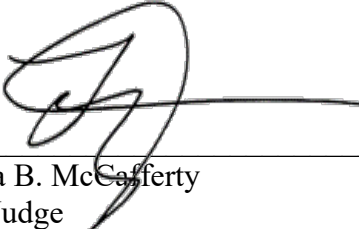
Due to the provision of the CARES Act, the court amends ADM 1, 20-6, paragraph 7, to make clear that the presumption that criminal matters involving incarcerated defendants will proceed by videoconference unless the defendant objects also applies to change of plea and supervised release revocation hearings.

Pursuant to Section 15002(b)(3) of the legislation, this authorization will remain in effect for 90 days unless terminated earlier. If emergency conditions continue to exist 90 days from the entry of this order, I will review this authorization and determine whether to extend it.

This order shall take effect immediately. Except as stated herein, all existing Standing Orders of this court remain in full force and effect.

SO ORDERED.

Date: March 30, 2020



Landya B. McCafferty
Chief Judge