UNITED STATES DISTRICT COURT

District of Oregon FILED'03 OCT 09 08:13USDC-ORP

Enactment of Local Rule 3000 – Video Teleconference (VTC) Proceedings in Criminal Cases

Misc. Cv. 03- 57

ORDER

Pursuant to 28 U.S.C. § 2071(e), the United States District Court for the District of Oregon adopted LR 3000 – Video Teleconference (VTC) Proceedings in Criminal Cases on September 22, 2003. Public comments about this rule must be submitted in writing, not later than December 1, 2003 to the following address:

Donald M. Cinnamond, Clerk
ATTN: LR 3000 Comments
740 US Courthouse
1000 SW Third Avenue
Portland, Oregon 97204

Done with the consent of the court this 9 day of October, 2003.

Ancer L. Haggerty
Chief Judge

cc: District Judicial Officers
Greg Walters, Circuit Executive
Donald M. Cinnamond, Clerk

LR 3000 VIDEO TELECONFERENCE (VTC) PROCEEDINGS IN CRIMINAL CASES

LR 3000.1 **Authorized Proceedings:** With the consent of the defendant, and subject to the commentary which follows this local rule, video teleconference (VTC) proceedings are authorized in the following criminal proceedings:

(a) Initial Appearances pursuant to Fed. R. Crim. P. 5

(b) Arraignment pursuant to Fed. R. Crim. P. 10

(c) Other Preliminary Pretrial Proceedings

(d) Initial Appearances in Petty Offense Cases.

LR 3000.2 **Notice Requirements**

(a) **Defendant Requested VTC:** A defendant wishing to appear by video conference shall notify the Clerk's Office and the United States Marshal, through counsel, at least ten (10) days prior to the date of the hearing.

(b) **Other Requests for VTC:** Any other party seeking to have the defendant appear by teleconference shall notify defense counsel to request consent at least fourteen (14) days prior to the hearing.

(c) **Waiver of Notice Period:** Time periods set forth in LR 3000.2(a) and (b) may be waived to accommodate exigent matters.

LR 3000.3 **Judicial Requirements**

(a) **Acknowledgment of Consent to VTC:** At the commencement of any VTC proceeding, the Court will confirm defendant's consent on the record.

Amendment History to LR 3000	
September 22, 2003	
LR 3000	This new rule is intended to provide guidance to litigants and court agencies about video teleconference (VTC) proceedings in criminal cases. This rule provides a limited exception to the general preference of the Court for the personal appearance of a defendant (unless that appearance has been waived). See Fed. R. Crim. P. 43 (defendant's presence required for specified proceedings). In establishing this rule, the Court recognizes that in some instances, the personal appearance of a defendant may be outweighed by such factors as transportation burdens for the Marshal or the defendant, the defendant's age or medical status, US Marshal's security concerns, etc. In opposition to these concerns, factors weighing against VTC proceedings include: (1) Shifting travel costs from one party to another by requiring attorneys and interpreters to travel to the defendant's location instead of bringing the defendant to court; (2) Potential degradation of the attorney-client relationship, and the need for defendants to consult privately with their attorneys before and during the course of proceedings; (3) Pretrial Services need to interview defendants and facilitate the expeditious release of eligible defendants; (4) The US Marshal's need to have the defendant physically present for booking and processing; (5) Defense counsel's need to review and explain documents to the defendant; and (6) Potential VTC technology problems between sites.

LR 3000.1	**Consent Requirements:** Appearance by a defendant at a VTC proceeding requires consent of the defendant. "Consent," as used in this rule is understood to mean "after advice of counsel". Consent should not be obtained by means of pre-printed forms or Miranda-type waivers. A defendant who is represented by counsel may consent or object to a VTC proceeding through counsel. Absence of consent shall in no manner be used against the defendant. **Consultation with Counsel.** In all cases in which the right to counsel applies, a defendant must be afforded the opportunity to consult privately with counsel before giving consent to a VTC proceeding. Opportunity to confer privately with counsel must also be available during the appearance itself. In general, this means that counsel must have the opportunity be physically present with the defendant. **Interpreters**. A defendant whose primary language is not English must be afforded an interpreter for proceedings which are on the record as well as for private communication with counsel. In many such instances, VTC proceedings are impractical unless arrangements can be made to place the defendant, defense counsel, and the interpreter in the same physical location.
LR 3000.2	**Notice Requirements:** The 10-day notice requirement provides time for the Marshal's Service to confirm the defendant's location; confirm whether VTC capabilities exist at the facility where a defendant is incarcerated; and ultimately to determine whether determine whether to transport the defendant to court in lieu of the VTC proceeding. A list of VTC sites will be maintained by the Clerk's Office. The 14-day notice to the Court Clerk facilitates scheduling courtroom VTC equipment. Both notice requirements provide defense counsel sufficient time to review the application and confer with his client; and when appropriate, either object to the VTC proceeding, or make necessary travel or other logistical arrangements. Section (c) permits accommodation for exigent circumstances, i.e. emergency matters, expedited first appearances or unavailability of a judicial officer.