

UNITED STATES DISTRICT COURT
DISTRICT OF OREGONIN RE: COURT OPERATIONS
IN REPOSE TO COVID-19

Standing Order 2023-1

1. Reauthorization of Remote Proceedings under the CARES Act

On March 30, 2020, this Court entered Standing Order 2020-07 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 the CARES Act, H.R. 748 (the "Act"). On June 29, 2020, September 25, 2020, December 23, 2020, March 19, 2021, June 16, 2021, September 15, 2021, December 14, 2021, March 14, 2022, June 10, 2022, September 7, 2022, and December 5, 2022, pursuant to Section 15002(b)(3)(A) of the Act, I reviewed the authorization and extended it for an additional 90 days each time. Standing Orders 2020-12; 2020-12 Amended, Second Amended, Third Amended, and Fourth Amended; 2021-7; 2021-10; 2021-17; 2022-1; 2022-13; 2022-16; 2022-24. As Chief Judge, and pursuant to Section 15002(b)(3)(A) of the Act, I have again reviewed the authorization and have determined to extend it for an additional 90 days.

Accordingly, pursuant to Section 15002(b)(1) of the Act, I hereby authorize the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, for all events listed in Section 15002(b) of the Act, with the consent of the defendant after consultation with counsel.

Pursuant to Section 15002(b)(2) of the Act, I further find that most felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and most 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 a particular 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 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.

2. Modified Court Operations**A. Court Business and Proceedings**

Consistent with the reauthorization of remote proceedings set forth above, the following Court business and proceedings are permitted as long as they can be conducted in compliance

with health advisories, without jeopardizing public health and safety:

- i. Civil and criminal jury selections, grand jury proceedings, and jury trials may proceed as long as they can be conducted in compliance with health advisories.
- ii. All other civil and criminal matters scheduled for an in-Court appearance may proceed as long as they can be conducted in compliance with health advisories. Where all parties and the Presiding Judge agree to resolve the matters without oral argument, or via telephone or video conferencing, hearings may be conducted remotely. This provision applies to the District of Oregon Reentry Court proceedings.
- iii. In the event the Court experiences a reduced ability to obtain an adequate spectrum of jurors due to public health considerations associated with criminal jury trials and grand jury proceedings, the time period of the continuances implemented by this Standing Order will be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). The Court finds that the ends of justice served by ordering these continuances outweighs the best interest of the public and each defendant's right to speedy indictment or trial. The Court may extend the period of exclusion as circumstances may warrant.
- iv. The District Clerk's Offices in the Portland, Eugene, and Medford courthouses do not accept cash payments. See Standing Order 2021-16. Intake counters at the Portland, Eugene, and Medford courthouses are open to the public, and filings will continue to be accepted electronically, by mail, and by deposit in drop boxes located in the lobbies of the Portland, Eugene, and Medford courthouses. No person may pay a fee by leaving the payment in any of the Court's drop boxes, however. Fees submitted via U.S. mail must be paid by check or money order. Fees paid in person at one of the Court's public intake counters may be paid by check, money order, or credit card. Registered users of CM/ECF and persons applying to practice before this Court may pay fees using a credit card via pay.gov.

B. Waiver of Signature Requirements

Some Federal Rules of Criminal Procedure, such as Rules 10(b)(2), 15(c)(1)(A), 20(a)(1), 23(a)(1), 32(e), 43(b)(2), allow for consent or waiver of certain rights by a defendant, but require that such consent or waiver be in writing. More broadly, various documents, including but not limited to financial affidavits, plea petitions, and waivers of indictment, call for the signatures of defendants, counsel, and/or judges. The current circumstances are likely to make it impracticable, if not impossible, to obtain actual signatures in a timely and safe manner. For these reasons, during the period when this Order is in effect, any document may be signed electronically. Further, where a defendant's signature is called for, either defense counsel or the presiding judge may sign on the defendant's behalf if the defendant, after an opportunity to consult with counsel, consents.

C. Previous COVID-19 Standing Orders

Standing Order 2022-24 is vacated. As long as this Court authorizes remote criminal proceedings under the CARES Act, Standing Order 2020-10, which safeguards the confidentiality of attorney-client communications during the COVID-19 outbreak, continues to remain effective.

The Court will vacate or amend this Order as necessary and appropriate.

IT IS SO ORDERED.

DATED this 3rd day of March, 2023.



MARCO HERNÁNDEZ
CHIEF U.S. DISTRICT JUDGE