

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

IN RE: COURT OPERATIONS
IN REPOSE TO COVID-19

Standing Order 2021-10

1. Re-authorization 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, and June 16, 2021, 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; and 2021-7. 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 teleconferencing, 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 Office in the Portland, Eugene, and Medford courthouses will not accept cash payments until further notice. 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 Standing 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. Entry and Mask Requirements

The following persons shall not enter any United States Courthouse in the District of Oregon:

- i. Persons currently diagnosed with or experiencing any symptoms of COVID-19;
- ii. Persons who have had close physical contact within the last 14 days with a person who has been diagnosed with COVID-19; or
- iii. Persons who have been asked to self-observe, self-isolate, or self-quarantine by a doctor, hospital, or public health authority within the last 14 days.

All persons seeking entry to, or occupying, a public lobby or elevator space in any United States Courthouse in the District of Oregon must wear a face covering or mask unless a medical condition prevents them from doing so and they can show proof of the medical condition in the form of a physician's order or other documentation. The face covering or mask must completely conceal the wearer's nose and mouth at all times. Any visitor seeking entry to the Courthouses without a mask or face covering will be provided one by the Court. If the Court is unable to provide a mask for any reason, the visitor will be asked to contact by telephone the office to be visited to explore alternatives to entering the Courthouse. With respect to courtrooms and adjacent spaces, a judge may determine whether to require vaccinated individuals to wear a mask.

The United States Marshal, his deputies, and the Court Security Officers shall enforce this Order and deny entry to anyone attempting to enter in violation of this Order.


D. Previous COVID-19 Standing Orders

The Court will vacate or amend this Standing Order as necessary and appropriate. Standing Orders 2020-4; 2020-5; 2020-6; 2020-7; 2020-8 and its subsequent amended version; 2020-9; 2020-11; 2020-12 and its four subsequent amended versions; and 2021-7 are vacated pursuant to Standing Order 2021-11.

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.

IT IS SO ORDERED.

DATED this 15th day of September, 2021.


MARCO HERNÁNDEZ
CHIEF U.S. DISTRICT JUDGE