

**IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

**CARES ACT FINDINGS
REGARDING CRIMINAL
PROCEEDINGS**

**DISTRICT COURT GENERAL ORDER
2020-4**

On March 13, 2020, the President of the United States declared a National Emergency in response to the COVID-19 pandemic pursuant to the National Emergencies Act, 50 U.S.C.

§ 1601, *et seq.* On March 27, 2020, Congress passed and the President signed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which authorized the Judicial Conference of the United States to provide authority to Chief District Judges to permit certain criminal proceedings to be conducted by video or audio teleconference.

On March 29, 2020, the Judicial Conference of the United States found, pursuant to the CARES Act, that “emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. § 1601, *et seq.*) with respect to the Coronavirus Disease 2019 (COVID-19) have materially affected and will materially affect the functioning of the federal courts generally.” Pursuant to § 15002(b) of the CARES Act, the authority granted by the Judicial Conference of the United States, and on my own motion, I make the following findings:

1. Emergency conditions due to the COVID-19 pandemic will materially affect the functioning of the courts within the District of Colorado. Pursuant to § 15002(b)(1) of the CARES Act, I authorize judges in this district, with the consent of the defendant after consultation with counsel, to use video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, for the following events:

- a. Detention hearings under section 3142 of title 18, United States Code;
- b. Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;

- c. Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
- d. Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- e. Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- f. Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- g. Pretrial release revocation proceedings under section 3148 of title 18, United States Code;
- h. Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- i. Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and
- j. Proceedings under chapter 403 of title 18, United States Code (commonly known as the "Federal Juvenile Delinquency Act"), except for contested transfer hearings and juvenile delinquency adjudications or trial proceedings.

2. Pursuant to § 15002(b)(2) of the CARES Act, I further 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 without seriously jeopardizing public health and safety. As a result, if judges in individual cases find, for specific reasons, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, judges may, with the consent of the defendant after consultation with counsel, conduct those proceedings by video teleconference, or by telephone conference if video teleconferencing is not reasonably available. This authority extends to, but is not limited

to, equivalent plea, sentencing or disposition proceedings under 18 U.S.C. § 403 (commonly referred to as the “Federal Juvenile Delinquency Act”).

3. This order is effective for ninety days unless terminated earlier. If the emergency persists longer than ninety days, I will review the situation for possible extension of authority pursuant to the provisions of the CARES Act. Notwithstanding the foregoing, pursuant to the CARES Act, this order shall terminate on the last day of the covered emergency period or the date on which the Judicial Conference of the United States finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act with respect to the COVID-19 pandemic no longer materially affect the functioning of either the federal courts generally or the courts within the District of Colorado.

IT IS HEREBY ORDERED.

Dated at Denver, Colorado this 6th day of April, 2020.

BY THE COURT

A handwritten signature in blue ink, appearing to read "Philip A. Brimmer", is written over a horizontal line.

PHILIP A. BRIMMER
Chief United States District Judge