

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Miscellaneous Case No. 2:20-mc-00052



**IN RE: EIGHTH EXTENSION OF GENERAL ORDER #4
VIDEOCONFERENCING in
CRIMINAL PROCEEDINGS**

On March 30, 2020, the Court issued General Order #4 authorizing the expanded use of videoconferencing in criminal proceedings in light of the national emergency created by the COVID-19 pandemic. On June 25, 2020, the Court entered an order extending that authorization for ninety days. On September 21, 2020, the Court entered an order further extending the authorization until December 20, 2020. On December 18, 2020, the Court entered an order further extending the authorization for ninety days. On March 17, 2021, the Court entered an order further extending the authorization for ninety days. On June 14, 2021, the Court entered an order further extending the authorization for ninety days. On September 10, 2021, the Court entered an order further extending the authorization for ninety days. Finally, on December 8, 2021, the Court entered an order further extending the authorization for ninety days. The Court finds that the use of videoconferencing during the pandemic has been beneficial to the court, litigants, and others involved in criminal proceedings in this District.

Pursuant to Section 15002(b)(3) of the CARES Act, I am required to review the authorization set forth in General Order #4 every ninety days. The authorization is based upon the declaration of a national emergency by the President, and a determination by the Judicial Conference that the federal courts are materially affected by the national emergency. The national emergency due to the COVID-19 pandemic was declared on March 13, 2020, by Proclamation 9994. By operation of statute, a national emergency automatically terminates on the anniversary of the declaration of the emergency “if, within the ninety-day period prior to the anniversary date, the President does not publish in the Federal Register and transmit to Congress a notice stating that such emergency is to continue in effect after such anniversary.” 50 U.S.C. § 1622(d).

The President has twice continued the national emergency within the period required by statute. On February 24, 2021, the President notified Congress that the pandemic continues to cause significant risk to the public health and safety of the nation, and on February 26, 2021, published formal notice in the Federal Register continuing the national emergency. 86 FR 11599. On February 18, 2022, the President notified Congress that the pandemic continues to cause significant risk to the public health and safety of the nation, and on February 23, 2022, published formal notice in the Federal Register continuing the national emergency concerning the COVID-19 pandemic. 87 FR 10289. I have no indication that the Judicial Conference is considering a determination that the emergency no longer materially affects the federal courts. Further, although progress has been made locally and

nationally in halting the spread of the pandemic, the risks of infection are still high among certain populations, especially in prisons and detention centers. Additionally, recently updated CDC guidelines¹ currently indicate a high rate of community spread of COVID-19 throughout the state. Accordingly, it is hereby ORDERED that the authorization to conduct videoconferencing in criminal cases as outlined in General Order #4 is hereby extended for a period of ninety days.

This Order will remain in effect ninety days from the date of its entry unless terminated earlier. If emergency conditions continue to exist ninety days from the date of this Order, or if the President's emergency declaration remains in effect, along with the Judicial Conference's finding that the emergency conditions will materially affect the functioning of the federal courts, the Chief Judge will review this Order and determine whether to extend it. Such review will occur not less frequently than once every ninety days, until the last day of the covered emergency period or until the Chief Judge determines that this authorization is no longer warranted.

SO ORDERED this 7th day of March, 2022.



THOMAS E. JOHNSTON, CHIEF JUDGE

¹ Centers for Disease Control and Prevention, *United States COVID-19 Community Levels by County*. (Last visited March 3, 2022). <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels.html>.