

**IN THE UNITED STATES DISTRICT AND BANKRUPTCY COURTS FOR
THE DISTRICT OF IDAHO**

**RENEWAL OF GENERAL ORDER
363 EXTENDING CARES ACT
PROVISIONS IN CRIMINAL
PROCEEDINGS BY 90 DAYS**

GENERAL ORDER NO. 409

BEFORE: David C. Nye, Chief District Judge

On March 13, 2020, the President of the United States issued a proclamation declaring a National Emergency in response to the Coronavirus Disease-2019 (“COVID19”) pandemic pursuant to the National Emergencies Act (50 U.S.C. § 1601, *et seq.*). On March 27, 2020, Congress passed 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 the conduct of certain criminal proceedings by video or audio conference. The President signed the CARES Act into law on March 27, 2020.

On March 27, 2020, the Judicial Conference of the United States made the appropriate findings as required under the CARES Act, finding specifically 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.” Thus, acting pursuant to § 15002(b) of

the CARES Act and the authority granted by the Judicial Conference of the United States, I made the following findings and order:

On March 30, 2020, I entered an order (General Order 363) pursuant to the authority granted under § 15002(b)(1) of the CARES Act, to authorize judges in this district, with the consent of the defendant, to use video conferencing, or telephonic conferencing for the events listed below:

- (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) 24 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 5 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.

- (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 adjudication or trial proceedings.

Pursuant to § 15002(b)(2) of the CARES Act, I further specifically 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, conduct those proceedings by video conference, or by telephonic conference if video conferencing 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.").

A series of General Orders have reauthorized the continuation of the provisions of General Order 363 for ninety (90) days, including General Order 403, which expired on December 23, 2021. I hereby renew the September 23, 2021, reauthorization contained within in General Order 403 retroactively from December 23, 2021, for ninety (90) additional days unless earlier terminated. If the emergency persists longer than ninety (90) days, I will review the situation for another possible extension of authority pursuant to the provisions of the CARES Act. Notwithstanding the foregoing, pursuant to the provisions of the CARES Act, this authority shall terminate on the last day of the extended 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 virus outbreak no longer materially affect the functioning of either the Federal courts generally or the courts within this district.

IT IS HEREBY ORDERED.

DATED: This 3rd day of January 2022, nun pro tunc to December 23, 2021.



David C. Nye
Chief Judge
United States District Court