

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

IN RE: ORDER AUTHORIZING THE
USE OF TELEPHONIC AND VIDEO
HEARINGS PURSUANT TO THE
CARES ACT FOR THE TIME PERIOD
AUGUST 13, 2020 THROUGH
SEPTEMBER 11, 2020

**ORDER AUTHORIZING THE USE OF TELEPHONIC AND VIDEO
HEARINGS PURSUANT TO THE CARES ACT FOR THE TIME PERIOD
AUGUST 13, 2020 THROUGH SEPTEMBER 11, 2020**

On July 28, 2020, this court entered an order pursuant to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) authorizing the use of video/telephonic hearings for specified matters in criminal cases for the time period July 29, 2020 through August 27, 2020. This Order, effective today, supersedes the July 28 CARES Act order and remains effective through September 11, 2020. The Court enters this order in response to the recent and significant increase in the spread of COVID-19 in the State of Hawaii and the continuing need to limit the number of individuals entering the courthouse in order to protect the health and safety of the public, court employees, counsel, and parties.

Pursuant to the CARES Act, on March 29, 2020, the Judicial Conference of the United States found 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 COVID-19 have materially affected and will materially affect the functioning of the federal courts generally.” This finding is still effective. Thus, as Chief Judge for the United States District Court for the District of Hawaii, acting pursuant to § 15002(b) of the CARES Act, the authority granted by the Judicial Conference of the United States, and based on my own motion, I make the following findings and hereby ORDER:

1. Pursuant to the authority granted under § 15002(b)(1) of the CARES Act, I hereby authorize judges in the United States District Court for the District of Hawaii, with the consent of the defendant or the juvenile after consultation with counsel, to use video conferencing, or telephonic conferencing if video conferencing is not reasonably available, for the following matters:

- (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 adjudication or trial proceedings.

2. 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 presiding 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 or the juvenile after consultation with counsel, conduct those proceedings by video conferencing, or telephonic conferencing if video conferencing is not reasonably available. This authority extends to equivalent plea, sentencing or disposition proceedings under the Federal Juvenile Delinquency Act.

3. This order is effective as of August 13, 2020, and remains effective through September 11, 2020 unless earlier terminated. If the emergency persists

past September 11, 2020, I will review the situation for 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 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 virus outbreak no longer materially affect the functioning of either the Federal courts generally or the District of Hawaii specifically.

IT IS SO ORDERED:

DATED: Honolulu, Hawaii, August 13, 2020.



/s/ J. Michael Seabright
J. Michael Seabright
United States District Judge

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