

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

In the matter of

FELONY PLEAS AND SENTENCINGS:
REAUTHORIZATION UNDER THE
CARES ACT EFFECTIVE
SEPTEMBER 10, 2021

**MISCELLANEOUS GENERAL
ORDER 21-19**

On August 24, 2021, this Court entered Miscellaneous General Order (“MGO”) 21-16 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 until further order of the Court. This Order modifies and supersedes specific provisions of MGO 21-16 providing for felony plea and sentencing proceedings to be conducted in person and is entered in response to the ongoing COVID-19 pandemic in the State of Alaska and the continuing need to protect the health and safety of the public, court employees, counsel, and parties. This Order is effective on September 10, 2021, and runs through October 4, 2021.

Although COVID-19 vaccines are widely available, the COVID-19 pandemic, and specifically the Delta variant, continue to materially affect the function of the courts within the District of Alaska. The District of Alaska now faces a backlog of criminal cases directly caused by the Court’s limited ability to process criminal cases and hold criminal jury trials much of the past 18 months. The downstream effects of COVID-19 on the Court’s operations will continue to strain judicial resources. Additionally, outbreaks of COVID-19 in Alaska’s correctional facilities are currently impacting in-person access to incarcerated individuals.

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, the Chief Judge for the United States District Court for the District

of Alaska, acting pursuant to § 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, makes the following findings and hereby ORDERS:

1. 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 a district judge in an individual case finds, for specific reasons, that a felony plea or sentencing cannot be further delayed without serious harm to the interests of justice, a judge 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.

2. Because of the limited availability of videoconferencing for federal defendants being held at State of Alaska Department of Corrections' facilities, videoconferencing is regularly not reasonably available, meaning that proceedings may occur with the defendant appearing by telephone, to the extent that the defendant has not lawfully waived his participation in the hearing altogether.

This Order is effective as of September 10, 2021, and remains effective through October 4, 2021, unless earlier terminated. If the emergency persists past October 4, 2021, the Chief Judge will review the situation and may extend 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 Alaska specifically.

DATED this 10th day of September, 2021.

/s/ Timothy M. Burgess
Hon. Timothy M. Burgess
Chief United States District Judge

/s/ Sharon L. Gleason
Hon. Sharon L. Gleason
United States District Judge

/s/ Joshua M. Kindred
Hon. Joshua M. Kindred
United States District Judge

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