

DEC 17 2021

IN THE UNITED STATES DISTRICT COURT **TAMMY H. DOWNS, CLERK**  
FOR THE EASTERN DISTRICT OF ARKANSAS ~~BY: [Signature]~~ **DEP CLERK**

IN RE: COURT OPERATIONS DURING COVID-19 PANDEMIC

**ADMINISTRATIVE ORDER EIGHTEEN**

The Eastern District has operated at full speed this fall, holding many trials and hearings. Various mitigation measures have allowed our Court to do so safely. As we've experienced before, the current virus-related signals are mixed. Vaccinations are increasing, while infections and hospitalizations are up and down.\* Some breakthrough infections are occurring. And the omicron variant, with its attendant uncertainties, is present in the United States and spreading.

The Court concludes that, at this point, the best response in the still-fluid circumstances is (with marginal changes) to continue the effective drill we've followed since late summer. The details are specified in Administrative Order Sixteen. Each presiding Judge will make case-sensitive scheduling decisions week by week, month by month. COVID-19-based continuances will be freely given, especially in jury trials. Remote proceedings by video or telephone will be used whenever practicable. All the protocols listed in Administrative Order Sixteen—masking, rearranged courtrooms, simulcasting, and distancing—will be followed. Enhanced screening of potential jurors

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\* [www.healthy.arkansas.gov/programs-services/topics/novel-coronavirus](http://www.healthy.arkansas.gov/programs-services/topics/novel-coronavirus)

and increased ventilation will continue. The Court will also continue to stagger start dates for jury trials and use multiple spaces for selecting juries.

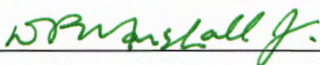
Remote proceedings, especially in criminal cases, are an essential part of reducing the virus risk while continuing full operations during the winter months. The Eastern District has almost six hundred individuals in custody at fourteen facilities in Arkansas and surrounding states. On behalf of our Court, I have therefore reviewed the CARES Act authorizations made first in March 2020 by Administrative Order Three, extended periodically since then by various Administrative Orders, and last extended by Administrative Order Seventeen until 18 December 2021. CARES Act, Pub. L. No. 116-136 § 15002(b)(3)(B).

It remains necessary – when the interests of justice so require – to conduct many criminal proceedings remotely. In particular, moving in-custody defendants to, from, and around the courthouses, plus mixing people from various locations, creates health-related challenges for the defendants, the United States Marshal, lawyers, Court personnel, and others. Based on the current risk presented by COVID-19 in the Eastern District, many felony pleas and many felony sentencings cannot be conducted in person without seriously jeopardizing public health and safety. Pub. L. No. 116-136 § 15002(b)(2)(A). I therefore extend the authorizations in

Administrative Orders Three, Six, Seven, Nine, Eleven, Fifteen, and Seventeen for video teleconferencing (or teleconferencing if video teleconferencing is not reasonably available) in all previously listed kinds of proceedings for another ninety days until 18 March 2022. Pub. L. No. 116-136 § 15002(b)(1). If the defendant consents after consulting with counsel, and the presiding Judge concludes that a felony plea or felony sentencing cannot be further delayed without doing serious harm to the interests of justice, then the proceeding may be held by video teleconference or teleconference, if video teleconferencing is not reasonably available. Pub. L. No. 116-136 § 15002(b)(2)(A) & (b)(3)(B). I will review these authorizations again before 18 March 2022.

All the active and senior United States District Judges and United States Magistrate Judges for the Eastern District of Arkansas concur in this Administrative Order, except that Judge Rudofsky would strongly encourage (but not require) vaccinated individuals to wear masks in public areas.

So Ordered.

  
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D.P. Marshall Jr.  
Chief Judge

  
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17 December 2021