

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>UNITED STATES OF AMERICA</b>	:	
	:	
<b>v.</b>	:	<b>Criminal No. 21-CR-00180-RJL</b>
	:	
<b>ELIAS COSTIANES,</b>	:	<b>Status Hearing: March 12, 2021</b>
	:	
<b>Defendant.</b>	:	

**UNITED STATES’ MOTION REQUESTING TO  
APPEAR REMOTELY FOR STATUS HEARING**

The United States of America hereby moves this Court to permit the undersigned counsel for the government to appear remotely for the status hearing in this case scheduled for March 12, 2021. In support of this request, the government notes the following:

1. During the past year, many functions of the U.S. District Court for the District of Columbia have been suspended due to the COVID-19 pandemic. Chief Judge Howell has issued a series of standing orders addressing the operations of the Court,<sup>1</sup> most recently on March 5, 2021, addressing the limited resumption of jury trials.<sup>2</sup> In an order issued last week, Chief Judge Howell observed that “[o]ver the last two weeks in the District, the number of new cases has ticked

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<sup>1</sup> See *In Re: Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-9 (BAH) (March 16, 2020); *In Re: Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-19 (BAH)(Apr. 2, 2020); *In Re Further Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-29 (BAH) (May 26, 2020); *In Re: Third Further Extension of Postponed Court Proceedings Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-62 (BAH) (July 9, 2020); *In Re: Fourth Further Extension of Postponed Court Proceedings Due to Ongoing Exigent Circumstances*, Standing Order No. 20-68 (BAH) (August 10, 2020); *In Re: Fifth Extension of Postponed Jury Trials Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-89 (BAH) (Nov. 6, 2020); *In Re: Adjustment to Fifth Extension of Postponed Jury Trials Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic and Temporary Suspension of Authority to Administer the Oath of Allegiance to New Citizens*, Standing Order No. 20-91 (BAH) (Nov. 24, 2020); *In Re: Sixth Extension of Postponed Jury Trials Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-93 (BAH) (Dec 17, 2020).

<sup>2</sup> *In Re: Limited Resumption of Criminal Jury Trials in Light of Current Circumstances Relating to the COVID-19 Pandemic*, Standing Order No. 21-10 (BAH) (March 5, 2021).

up by 5 percent, highlighting the need for continued vigilance.” (Standing Order No. 21-10 at 3.) And while the District Court will resume criminal jury trials in limited circumstances with rigid safety protocols in place, “the vast majority of the public remains unvaccinated and adherence to health and safety precautions to reduce the spread of the virus remains critical.” (Standing Order No. 21-10 at 3-4.) Chief Judge Howell has authorized the continued use of video teleconferencing and telephone conferencing until the earliest of the following events: (a) Thirty days have passed since the date on which the President’s national emergency declaration terminates; (b) the Judicial Conference of the United States finds that emergency conditions no longer exist; or (c) the Chief Judge issues an order that video teleconferencing and telephone conferencing are no longer warranted. (Standing Order No. 20-92 at 8.) At this time, none of those events has occurred.

2. “This Court remains in Phase Two of its Continuity of Operations Plan during the COVID-19 Pandemic (‘COOP Plan’), issued July 15, 2020.” (Standing Order No. 21-20 at 2.) During Phase Two of the COOP Plan, in-person court proceedings are “permitted if necessary” but “video and audio teleconferencing should continue to be used to the greatest extent possible.” (COOP Plan at 14-15.) The COOP Plan further provides that during Phase Two “routine court proceedings ... will continue to be held remotely by audio and video conferencing.” (COOP Plan App. 7 at 1.)

3. This case has been scheduled for an in-person status conference on March 12, 2021, at 3:00 PM in Courtroom 18. The undersigned government counsel has not yet received a vaccination for COVID-19, and will not have received a vaccine prior to the March 12 hearing. The undersigned counsel is responsible for the care of school-aged children who have distance


learning that day until approximately 12:00 PM. Undersigned counsel will also be responsible for their care after the conclusion of their online instruction. No member of the undersigned's household has received the vaccine. Given these circumstances, undersigned counsel submits that it would be imprudent to risk potential exposure to COVID-19 during travel to and from the courthouse for the March 12 status hearing. Additionally, the status hearing is expected to be "routine" within the meaning of Phase Two of the COOP Plan—no witnesses will testify, no motions will be argued, and the government does not intend to request a change to the defendant's conditions of release.

WHEREFORE the government respectfully requests permission to appear via video teleconferencing or telephone conference for the status hearing on March 12, 2021. A proposed order is attached.

Respectfully submitted,

CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793


By:

  
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March 11, 2021

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2021, I caused a copy of the foregoing to be served upon Joseph Conte, Esq., via the Court's ECF system.

  
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JOHN W. BORCHERT  
Assistant United States Attorney

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<b>Defendant.</b>	:	

**ORDER**

This matter comes before the Court on the United States' Motion Requesting to Appear Remotely for a status hearing in this case on March 12, 2021. It is hereby

**ORDERED** that the motion is granted and government counsel may enter an appearance via video teleconferencing or telephonic conferencing with the assistance of the courtroom deputy.

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THE HONORABLE RICHARD J. LEON  
UNITED STATES DISTRICT COURT

CC: Parties of record