

**IN THE DISTRICT COURT OF TETON COUNTY, WYOMING
NINTH JUDICIAL DISTRICT**

THE STATE OF WYOMING,)	
Plaintiff,)	
)	
v.)	Criminal Action No. 2****
)	
****,)	
Defendant.)	

ORDER SETTING PROTOCOLS FOR VIDEO HEARING

This matter came before the Court on its own motion. A hearing is set to occur in this matter on [date]. Due to the COVID-19 pandemic, the states of emergency declared by federal, state, and local governments, and the importance of social distancing measures, the hearing shall occur by video conference. This Order provides instructions, technical requirements, and training opportunities.

1. U.R.D.C. 802 and W.R.Cr.P. 43.1. Pursuant to U.R.D.C. 802, the Court, in its discretion, can use conference calls for civil matters and some criminal matters. W.R.Cr.P. 43.1 allows video technology to be used for certain criminal matters with the Defendant's consent and for some matters without consent. During the COVID-19 pandemic, the Court finds it appropriate to hold hearings by telephone or video where possible, absent compelling circumstances to require in-person hearings.
2. Consent and Waiver. For those matters that require the Defendant's consent to a video hearing, that consent must be either in writing or on the record. W.R.Cr.P. 43.1(b). Counsel are encouraged to file a written consent prior to the hearing. If no written consent is filed, counsel and Defendant should be prepared to put that consent on the record at the start of the hearing. If Defendant is unwilling to consent to a video hearing, counsel shall notify the Court as soon as possible so the hearing can be rescheduled and accommodations can be made for an in-

person appearance.

3. If Defendant and their counsel will not be present at the same location, the hearing may only be conducted if Defendant waives the right to have the attorney physically present. W.R.Cr.P. 43.1(c). That waiver must be either in writing or on the record. Counsel are encouraged to file that waiver prior to the hearing. If no written waiver is filed, counsel and Defendant should be prepared to put that waiver on the record at the start of the hearing. If Defendant is unwilling to waive the right to have the attorney physically present at the same location for the video hearing, counsel shall notify the Court as soon as possible so the matter may be rescheduled or so accommodations can be made for counsel and Defendant to be physically present.
4. Instructions for Appearing through Microsoft Teams. All Wyoming District Courtrooms are equipped with a Microsoft HUB which allows for appearances by video conference. The videoconferencing platform used by the Wyoming district courts is Microsoft Teams.
5. Counsel are responsible for contacting the Court's Judicial Assistant to provide an email address for the parties and any witnesses who will appear at the hearing. Counsel should contact the Judicial Assistant not later than 12:00 noon two (2) days before the hearing.
6. The Court will then send counsel, the parties, and any witnesses a Teams invite to facilitate their appearance at the hearing. The invite will arrive by email.
7. That invitation includes a purple link (labeled as "Join Microsoft Teams Meeting") to click on to join the hearing before the hearing begins. The link will connect the participant to the conference. Note that the invite will identify a period of time longer than the hearing. That does not indicate the hearing time has changed. The Court recommends you join the conference ten minutes before the hearing begins to troubleshoot any difficulties and to familiarize yourself with the screen.

*State v. *****

Criminal Action No. 2***

ORDER SETTING PROTOCOLS FOR VIDEO HEARING

Page 2 of 7

8. Once you click on the link, please follow the prompts and directions. You will be asked to download the Microsoft Teams App. Please do so. It takes only a minute or two and the download is free.
 - a. It may be prudent to download the Teams App a day or two before your hearing to avoid a technical delay the day of the hearing. The link can be found through the app store on mobile devices or directly at <https://teams.microsoft.com/downloads>.
 - b. To download the app, you will be prompted to enter a Microsoft-based email address. That Microsoft-based email address is not required. Entering that information can be skipped.
 - c. Without the Teams app, your options during the video conference will be limited, including a limitation on how many participants you will see on your screen.
 - d. Once the app is downloaded, and after you have clicked the link to join the meeting, you will be prompted to proceed either through the Teams app or through your browser. Select the option that uses the Teams App.
9. Once you join the video meeting, please check your sound and video settings. You will see a Camera button and a Video button at the bottom of your video screens (you can view these buttons if using a phone by touching your screen). Please make sure your Video button is enabled and your Microphone button is not set to mute. If your video camera still is not broadcasting, please check your computer or phone privacy settings and enable your video to operate while using Microsoft Teams.
10. All parties, counsel, and witnesses shall use the video feature for appearance at the hearing (not the audio-only feature). Note that the Court's Staff Attorney may appear as a conference

*State v. *****

Criminal Action No. 2***

ORDER SETTING PROTOCOLS FOR VIDEO HEARING

Page 3 of 7

participant on your screen but without video. Unless the hearing is a confidential proceeding, members of the public and the media observing the hearing may also appear on your screen. This is consistent with in-person proceedings which are open to the public and the policy of open courts.

- a. On a case-by-case basis, parties unable to connect by video may be permitted to use the audio call-in number that appears below the “Join Microsoft Teams Meeting” link.
- b. During the conference, if your video or audio quality begins to fail, you may be asked to turn off the video, in which case you will still be in the conference by audio and you will still be able to see the courtroom and other participants. This generally boosts your audio connection. Interference with the audio is often caused by low bandwidth, which can occur when another user in your location is using the same connection for large volume files such as streaming video or gaming. See *Technical Requirements* discussed below.
- c. The Teams screen does not always show all participants, particularly where there are more than four participants. Participants should be able to see the courtroom and the participant who is speaking but might not see all other participants at the same time.

11. After confirming the microphones and audio are working, all participants should mute their microphone, through the mute icon on the Teams screen, until they need to speak.

12. Recesses for Defendants and Counsel to Confer. Defendant and their counsel have the right to confer privately with each other and may request recesses during the video hearing to do so.

W.R.Cr.P. 43.1(c)(2). After requesting a recess, Defendant and defense counsel shall be

*State v. *****

Criminal Action No. 2***

ORDER SETTING PROTOCOLS FOR VIDEO HEARING

Page 4 of 7

granted leave to exit the video conference. Exiting the conference is done by selecting the red button marked with a telephone icon at the lower right of the Teams' tool bar. Defendant and their counsel can then call each other by telephone to confer. When their conference is complete, Defendant and their counsel shall rejoin the video hearing by again selecting the "Join Microsoft Teams Meeting" on the invitation to the meeting. Once they rejoin the conference, the Court shall end the recess and proceed with the hearing.

13. Technical Requirements. All parties, counsel, and witnesses in the conference will need to be using a device with a camera, speakers, and a microphone, such as a laptop computer, desktop computer with those features, an iPad or other tablet, a smart phone, or other similarly equipped device. Using a smartphone for a Teams videoconference will have different features than using a computer or tablet.
14. An internet connection will be required. We recommend using an internet connection as opposed to wireless data. Some jurisdictions have identified connectivity issues when using cellular data for the connection. The bandwidth limitations of the internet connection you are using may affect the quality of the video and audio during the conference. You may need to limit others' use of the internet at your location during the video conference to ensure your connection. Large uses of bandwidth include Netflix, Pandora, and similar video and music streaming services, gaming, YouTube, and other web-based video applications.
15. An email address is required to obtain the Team invitation.
16. Be familiar with your equipment and how to properly operate it (i.e., know how to turn on webcam, microphone, and speakers). If you are unfamiliar, request assistance from the Court Reporter during your training opportunity, discussed below.
17. *Special Accommodations.* As a reminder, video conferences can be conducted on any smart

*State v. *****

Criminal Action No. 2***

ORDER SETTING PROTOCOLS FOR VIDEO HEARING

Page 5 of 7

phone and using either a wireless connection or cellular data. In the event a defendant does not have a suitable device or access to either a wireless internet connection or cellular data, counsel should contact the Court as soon as possible to work on alternate arrangements or to coordinate access to equipment and a wireless internet location.

18. Environment. Conference participants should be indoors in a quiet location, preferably without others present. If that is not possible, others in that location may not speak or coach or otherwise assist a witness or party in their testimony. Participants should also observe ordinary courtroom decorum while appearing by video.
19. Prohibition on Recording. Video or teleconference attendees are prohibited from using any audio or video recording equipment to record proceedings. Violation of this is subject to contempt of court actions which could result in a criminal charge with penalties of jail time, fines, or both.
20. Training Options. In order to make sure this protocol works effectively, the Court Reporter, Lance Oviatt, will be available in advance of your hearing for training to make sure you are able to connect to our system. Mr. Oviatt can also demonstrate some of the advanced capabilities of Teams to display exhibits to the Court and to witnesses from your computer. If you anticipate appearing in the District Court and need some training, please contact Mr. Oviatt to make arrangements. He can be reached at loviatt@courts.state.wy.us. You should make arrangements to conduct your training not later than two (2) days before the hearing, but sooner is preferable due to the Court's schedule which may limit the availability of the Court Reporter.
21. Exhibits. Exhibits are not contemplated at criminal video hearings. If exhibits are required, counsel should contact the Court as soon as possible so the Court can issue its protocol for presenting exhibits at video hearings.

*State v. *****

Criminal Action No. 2***

ORDER SETTING PROTOCOLS FOR VIDEO HEARING

Page 6 of 7

22. Patience Is Appreciated. Video conferencing is not an exact substitute for in-person hearings, but it is a necessary substitute to continue court operations. The technology is imperfect, but other jurisdictions who include video conferencing as part of Continuity of Operations Plans note that its efficacy generally improves with practice and with time. The Court appreciates all parties' patience and accommodation as these new protocols are implemented, practiced, and refined. Protocols for video conferencing may be updated from time to time.

IT IS SO ORDERED.

DATED this____ day of February, 2021.

Timothy C. Day
District Judge