In the Matter of Directing or Permitting Appearances at Arraignment by Remote Means	)	CHIEF JUSTICE ORDER No. 20-028
	)	ORDER DIRECTING OR PERMITTING APPEARANCES AT ARRAIGNMENTS BY REMOTE MEANS

I HEREBY FIND THAT:

1. ORS 1.002 provides that:

   a. The Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure (ORCP); and, to facilitate exercise of that administrative authority and supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice; and

   b. The Chief Justice may delegate the exercise of any powers specified in ORS 1.002 to the Presiding Judge of a court.

2. ORS 1.171(4) provides that a Presiding Judge may delegate the exercise of any of the administrative powers of the Presiding Judge to another judge of the court.

3. On March 8, 2020, Governor Kate Brown signed Executive Order 20-03, which declared a state of emergency because of the threat that the COVID-19 coronavirus posed to public health and safety (hereafter, "COVID-19 state of emergency"). On June 30, 2020, Governor Brown signed Executive Order 20-30, which extended Executive Order 20-03 and the declaration of the COVID-19 state of emergency.

4. On March 23, 2020, Governor Brown signed Executive Order 20-12, which ordered Oregonians to "Stay Home, Save Lives," including, to the maximum extent possible, staying at home or at their place of residence and otherwise observing social distancing that provides a distance of at least 6 feet between individuals. On May 14, 2020, Governor Brown signed Executive Order 20-25, which directed a phased reopening of the State of Oregon.

5. On March 27, 2020, I issued Amended Chief Justice Order (CJO) 20-006, which imposed amended Level 3 restrictions on operations due to the spread of the COVID-19 virus and Governor Kate Brown's March 8, 2020, declaration of an emergency and her issuance of Executive Order 20-12. On May 15, 2020, I issued CJO 20-016, which imposed updated Level 3 restrictions, as well as Level 2 restrictions, on court operations in light of the Governor's Executive Order 20-25 and Oregon's phased reopening. Among other provisions, paragraph 8.e. of CJO 20-016 granted a Presiding Judge authority to order that an appearance be made or a proceeding be conducted by remote means, unless expressly prohibited by statute or prohibited by a constitutional provision.

6. The Oregon Legislative Assembly has enacted Oregon Laws 2020, chapter 12, section 6, which became effective on June 30, 2020. That legislation authorizes the Chief Justice to take certain actions, described in paragraph 7 of my findings below, during the COVID-19 state of emergency and continuing for 90 days after the declaration of that state of

emergency or any extension is no longer in effect. Executive Order 20-03, described in paragraph 3 of these findings, declared a COVID-19 state of emergency within the meaning of Oregon Laws 2020, chapter 12, section 6, and Executive Order 20-30, also described in paragraph 3, extended that state of emergency.

7. Section 6(4) of Oregon Laws 2020, chapter 12, provides that, during any COVID-19 state of emergency and continuing for 90 days after the declaration of that state of emergency or any extension is no longer in effect:

   a. Notwithstanding any other statute or rule to the contrary, the Chief Justice may direct or permit any appearance before a court or magistrate to be by telephone, other two-way electronic communication device, or simultaneous electronic transmission (SET) (collectively hereafter, "by remote means"); and

   b. If an appearance is set to occur by remote means under subparagraph 7.a. of these findings, a Presiding Judge instead may order that the appearance be in person if, upon the request of a party, the judge determines that there is a particular need for an in-person hearing or that a party as a constitutional right to an in-person hearing.

8. Section 6(5) of Oregon Laws 2020, chapter 12, provides that the Chief Justice may delegate the exercise of any powers described in paragraph 7 of these findings to the Presiding Judge of a court.

I HEREBY ORDER THAT, pursuant to ORS 1.002 and Oregon Laws 2020, chapter 12, section 6:

1. This order applies to arraignments subject to ORS 135.010 through ORS 135.067.

2. Notwithstanding ORS 131.045(2) and (3), ORS 135.030(3), and ORS 135.360(3):

   a. A Presiding Judge may direct or permit any arraignment or category of arraignment to be conducted by remote means.

   b. The authority granted in subparagraph 2.a. of this order includes the authority to direct the manner of remote means for any arraignment or category of arraignment, e.g., telephone, video, or any other form of simultaneous electronic transmission within the meaning of ORS 131.045(1)(c).

3. To the extent, if any, that this order conflicts with any provision of CJO 20-016, subparagraph 8.e., this order supersedes that provision, for arraignments subject to this order.

4. This order takes effect immediately. The authority granted by this order terminates 90 days after the declaration of the COVID-19 state of emergency or any extension is no longer in effect, or on further Chief Justice order, whichever first occurs.

Dated this 21st day of July, 2020.

Martha L. Walters
Chief Justice