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“present” at the imposition of sentence. While certain exceptions to that mandate are granted in Rule 43(b), none of them e

preliminary matters were considered by New Mexico judges and not the trial judge.

Thus, after the verdict was entered, the trial judge returned to his



(3) when the proceeding involves only a conference or hearing upon a question of law; or

(4) when the proceeding involves a reduction or correction of the defendant's sentence.

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<sup>2</sup>See also, *Valenzuela-Gonzalez v. United States Dist. Court for Dist. of Ariz.*, 915 F.2d 1276, 1281, (9th Cir. 1990) (quoting *In Re United States*, 784 F.2d 1062, 1063 (11th Cir. 1986) (“Without the presence of the defendant, the court cannot know with certainty that the defendant has been apprized of the proceedings.”)).

<sup>3</sup>Also, the Bureau of Prisons advised the court Lawrence, who was confined at FCI Florence, Colorado, was considered a “danger for transport.” *United States v. Lawrence*, 248 F.3d 300, 302 (4th Cir. 2001).

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<sup>4</sup>The court not

Responding to the government's contention district courts have discretion to permit video teleconferencing when circumstances warrant, the

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<sup>5</sup>It is that dissent the government wishes us to adopt here.







case Judge Conway) for authorization for payment by the government of a psychological examination. As required, Judge Conway approved the request upon a voucher that was then transmitted to the Chief Judge of the Circuit for approval. The voucher was examined by the designee of the Chief Circuit Judge who also approved the payment.

Subsequently, in the district court prior to sentencing and here on appeal, counsel has argued the voucher approvals given by the appropriate judges constituted orders granting a motion for a presentence examination. Nothing else contained in the record stands as a judicial order requiring the appointment of a psychiatrist or establis 0.7000 t12ne.17.000s3i4



that the court's failure to ask the defendant if he had anything to say before sentence was imposed *required reversal*") (emphasis added); ***United States v. Burgos-Andujar***