

**Guidance on the Extension of Deadlines and Time Limits
Defined by Reference to Terms of Court
Under the Chief Justice’s Order
Declaring Statewide Judicial Emergency**

Questions have arisen about how the tolling provisions of the Chief Justice’s Order Declaring Statewide Judicial Emergency (March 14, 2020) and Order Extending Declaration of Statewide Judicial Emergency (April 6, 2020) apply to deadlines and time limits that are defined by reference to terms of court. See, e.g., OCGA § 17-7-170 (statutory demands for speedy trial in noncapital cases); § 17-7-171 (statutory demands for speedy trial in capital cases); § 17-9-61 (motions in arrest of judgment); Hipp v. State, 293 Ga. 415, 416 (746 SE2d 95) (2013) (inherent authority of trial court to amend, correct, or revoke “its orders and judgments during the term at which they are entered”) (citation omitted); Rubiani v. State, 279 Ga. 299, 299 (612 SE2d 798) (2005) (withdrawal of guilty pleas). With respect to these deadlines and time limits, any regular term of court that is interrupted—whether at the beginning of the term, in the middle of the term, or at the end of the term—by the statewide judicial emergency simply does not count in the calculation of the deadlines and time limits.

To illustrate the application of this principle, consider a court with terms beginning on the first day of January, March, May, July, September, and November, and suppose that the statewide judicial emergency that was declared on March 14 were lifted on May 13. In that court, the March and May terms—both of which were interrupted by the statewide judicial emergency—would not count toward the calculation of any deadline or time limit that is defined by reference to terms of court. As a result:

- If a demand for speedy trial in a capital case were timely filed on February 26, the January term of court— which was not interrupted by the statewide judicial emergency— would start the “clock,” requiring the State to bring the case to trial no later than the end of the third regular term after the January term. But because the March and May terms would not count, the accused would not become entitled to a discharge and acquittal until after the

conclusion of the November term, assuming that jurors were qualified and available to try the accused in the July, September, and November terms.

- If an order were entered on March 5, and no appeal were taken, the court would have the power to amend, correct, or revoke its order through the end of the July term. Although the inherent authority of a trial court to amend, correct, or revoke its own judgment or order ordinarily expires at the end of the term in which the judgment or order was entered, the March and May terms would not count, and this authority would extend into the July term, the first term of court to begin after the expiration of the statewide judicial emergency.
- If a demand for speedy trial in a noncapital case were timely filed on May 15, the May term would not count as the first of the two terms in which the State would be allowed to bring the case to trial. The “clock” would not start running until the July term, and the accused would not become entitled to a discharge and acquittal until after the conclusion of the September term, assuming that jurors were qualified and available to try the accused in the July and September terms.

This is consistent with the understanding of the tolling provisions of the Chief Justice’s Orders as applied in other contexts. When the tolling provisions are applied to a deadline or time limit that is measured by reference to days (or to some unit of time, such as years, that is readily reducible to days), any day on which the statewide judicial emergency was in effect would not count toward such deadline or time limit. Similarly, when the tolling provisions are applied to a deadline or time limit that is measured by reference to statutory terms of court, any term in which the statewide judicial emergency was in effect would not count toward such deadline or time limit.

May 4, 2020