

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
BLUE RIDGE JUDICIAL CIRCUIT
STATE OF GEORGIA

EXTENSION OF LOCAL
STATE OF JUDICIAL EMERGENCY

August 12, 2020

ORDER EXTENDING LOCAL JUDICIAL EMERGENCY

On March 14, 2020, Chief Justice Harold Melton of the Supreme Court of Georgia entered an order declaring a state-wide judicial emergency. Thereafter, the Chief Justice has entered a series of orders extending the state-wide judicial emergency, with certain modifications and guidance. The most recent of these orders is dated August 11, 2020, and the Courts of the Blue Ridge Judicial Circuit are bound by it, except to the extent that the Chief Judge may properly add additional restrictions.¹

Since the Chief Justice's original order, this Court has entered multiple orders to confirm and implement the provisions of that order and its extensions.² Those orders are incorporated herein by reference, except as may be in conflict with the Chief Justice's order of August 11, 2020, or as modified herein.

¹ OCGA §§ 38-3-61 and 38-3-62.

² Said orders are as follows: Order to Address Essential Functions, filed March 18, 2020 at Superior Court Minute Book 201, Page 2229; Order on Public Access, filed March 26, 2020 at Superior Court Minute Book 201, Page 2231; First Amendment to Order to Address Essential Functions, filed March 27, 2020 at Superior Court Minute Book 201, Page 2233; Order Declaring Extension of Judicial Emergency, filed April 7, 2020 at Superior Court Minute Book 201, Page 2240; Order Declaring Second Extension of Judicial Emergency, filed May 12, 2020 at Superior Court Minute Book 201, Page 2256; and Order Declaring Local Judicial Emergency, filed July 13, 2020 at Superior Court Minute Book 201, Page 2301.

Since the entry of this Court's Order of July 13, 2020, the active number of coronavirus/CoVid-19 cases in Cherokee County and the entire State have failed to decrease. New case numbers remain at higher levels than existed at the time of the initial emergency orders.³

Throughout the pendency of the last local order, the Courts of the Blue Ridge Circuit have continued to provide services and operate without having to close the Justice Center.

In order to protect the health and safety of all court personnel, attorneys, litigants, and the general public, and to continue the orderly operation of the courts, and pursuant to O.C.G.A. § 38-3-60 and O.C.G.A. § 38-3-61(b), the declaration of judicial emergency of July 13, 2020, is extended by this Order, and shall affect all courts and clerk's offices in the Blue Ridge Judicial Circuit.

Accordingly, IT IS THE ORDER of the Court, as follows:

1. Health and Safety Measures: Where this order refers to "public health guidance," it references the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), the Georgia Department of Public Health (DPH), and the Cherokee Health Department.

All individuals entering the Justice Center shall abide by the health and safety measures as set forth in the Memorandum of the Chief Judge, filed as Appendix A of this Order.⁴ This document shall be posted at all entryways to the Justice Center, on the website of the Clerk of

³ On July 13, 2020, the date of the last local emergency order, the number of new confirmed coronavirus cases in Cherokee County was 49, and the 7 day average of new confirmed cases was 46.6. As of today, the number of new cases in Cherokee county was 65, and the 7 day average was 86.3. On July 13, the number of new reported coronavirus cases in the State of Georgia was 3649, and the 7 day average of new reported cases was 3353.6. As of today, the number of new reported cases statewide was 3639, and the 7 day average was 3559.4. See Georgia Department of Public Health, Daily Covid-19 Status Report, <https://dph.georgia.gov/covid-19-daily-status-report>.

⁴ This Memorandum incorporates many of the conditions found in this Court's Amended Order on Public Access, filed of record on May 12, 2020 at Superior Court Minute Book 201, Page 2254, which Order remains in effect.

Court and the Court Administrator, and at the elevator entrances on all floors of the Justice Center. This Memorandum shall be reviewed periodically, and modified to adapt to any changes to public health guidance.

2. Suspension of Reopening Plan: The reopening plan for the Blue Ridge Judicial Circuit, as incorporated by this Court's Order of June 19, 2020, is hereby suspended, including the conducting of in-person hearings contemplated in it. Prior to resuming in-person hearings on any scale, the reopening plan shall be reviewed for consistency with the Georgia Court Reopening Guide promulgated by the Judicial Council Strategic Plan Standing Committee, and any further direction as may be supplied by the Georgia Supreme Court through the Judicial Covid-19 Task Force. Any and all such plans shall be distributed to the local Bar Association and the general public in advance of commencement.

3. Master Calendars: The published master calendars of the Superior, State, Magistrate and Juvenile Courts of the Blue Ridge Judicial Circuit remain suspended. Each judge shall publish his or her calendar for the benefit of attorneys, litigants, and court personnel.

4. Essential Functions: The Frank C. Mills, III Cherokee County Justice Center shall remain open to the public and the Courts shall be open to address essential functions, giving priority to matters necessary to protect health, safety, and liberty of individuals. Essential functions include the following: (a) where an immediate liberty or safety concern is present requiring the attention of the court as soon as the court is available; (b) criminal court search warrants, arrest warrants, initial appearances, and bond reviews; (c) domestic abuse temporary protective orders and restraining orders; (d) juvenile court delinquency detention hearings and emergency removal matters; and (e) mental health commitment hearings.

5. Proceedings to be Conducted Remotely: The judges, clerk and court administrator and sheriff of this circuit have worked diligently throughout the judicial emergency to provide access to the courts. There exists technology for electronic review of documents in both civil and criminal cases, and conduct of inmate hearings as well as other appropriate matters by videoconference. Livestream broadcast of those matters is available to provide public access to court proceedings and to ensure a defendant's right to an open courtroom.

Therefore, all classes of court shall conduct hearings remotely, by telephone or videoconference, except as otherwise provided herein. Courts may compel the participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings shall be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia constitutions or applicable statutes or court rules. In civil, criminal, juvenile, and administrative proceedings, litigants may expressly consent in the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements.

If a party or a member of the public objects to the remote proceeding, the court shall sustain or overrule such objection prior to conducting the proceeding.

6. Limited Use of In-Person Hearings: Essential matters as defined herein, and matters deemed emergencies by the assigned judge, may be held in-person, if: (a) required by law to be in person, or (b) if it is not practicable for technical or other reasons for persons participate in the proceeding to participate remotely, AND (c) as long as any such hearing or matter is conducted in accordance with public health guidance and this Court's related orders. In the event that a particular attorney, litigant, witness or other participant may not be able to appear remotely in a

hearing on an essential or emergency matter, the assigned judge is encouraged to conduct “hybrid” hearings, allowing as much remote participation as possible, as long as such is in compliance with applicable laws and constitutional requirements.

Treatment courts and accountability courts may conduct in-person proceedings, if deemed necessary by the presiding judges of said courts, to address the special circumstances and needs of their participants. All such hearings shall be conducted in accordance with public health guidance and this Court’s related orders.

7. Alternate Locations: Nothing herein shall prohibit any class of court from conducting hearings or other business at an external or alternate location, with the agreement of the Cherokee County Board of Commissioners, in order to allow larger calendars while still abiding by social distancing and other public health guidance.

8. Livestream Broadcasts: Livestream links are available on the Court Administration website (<https://www.cherokeega.com/Court-Administrators-Office/>) for all proceedings not deemed to be confidential by law or otherwise held in open court.

9. Probate Court: The Probate Court shall conduct all business, with the exception of essential matters and emergencies, by appointment only. These appointments shall be scheduled and conducted in a way to ensure that applicants are required to maintain social distancing guidelines (for example, to limit the number of people in waiting area, hallways, and elevators). The Probate Court shall continue to provide essential services as set forth on the Probate Court website (<https://www.cherokeega.com/Probate-Court/>). The Probate Court shall coordinate with the Sheriff’s courthouse security personnel to ensure that walk-in applicants are advised of the way they may schedule an appointment for the services sought.

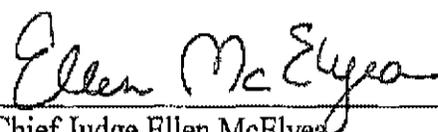
10. Mitigation for Social Distancing: All courts, offices, and departments are encouraged, to the extent possible, to allow employees to work remotely, and to conduct business and offer services by appointment, in order to mitigate the number of visitors entering the facilities at any given time.

11. Jury Trials, Grand Jury Proceedings, and Reimposition of Deadlines: Please see the prohibition on jury trials and most grand jury proceedings found in Section I of the Chief Justice's Order of August 11, 2020, as well as the reimposition of deadlines on litigants found in Section II of said Order.

This Order shall become effective on August 12, 2020, at 11:59 p.m. It shall terminate on September 12, 2020, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.

Pursuant to O.C.G.A. § 38-3-63, it is Ordered that the Sheriff of Cherokee County shall post this Order on his public notification site and in the Frank C. Mills, III Justice Center; that this Order shall immediately be served upon Chief Justice Harold D. Melton of the Supreme Court of Georgia, such service to be accomplished via email to Tee Barnes, the Clerk of the Supreme Court of Georgia, at barnest@gasupreme.us; that this Order shall immediately be served upon the judges and clerks of all courts of the Blue Ridge Judicial Circuit and on the clerks of the Georgia Court of Appeals and the Georgia Supreme Court, such service to be accomplished through reasonable means to assure expeditious receipt; and this Order shall be published on the Court Administrator's website for notice to the affected parties, counsel for the affected parties, and the public.

SO ORDERED, this 12th day of August, 2020



Chief Judge Ellen McElyea
Superior Court of Cherokee County
Blue Ridge Judicial Circuit

CC:

Chief Justice Harold Melton, Supreme Court of Georgia
Tee Barnes, Clerk of the Supreme Court of Georgia
Clerk, Georgia Court of Appeals
Sheriff Frank Reynolds
Judges of Cherokee Superior Court
Judges of Cherokee State Court
Judges of Cherokee Juvenile Court
Judge James Drane, Magistrate
Judge Keith Wood, Probate Court
Patty Baker, Clerk of Courts
Shannon Wallace, District Attorney
Todd Hayes, Solicitor-General
Lynn Epps, Court Administrator
Cherokee County Bar Association
Louis Turchiarelli, Indigent Defense Director
Cherokee County Board of Commissioners