

Patty Baker, Clerk of Superior Court - Cherokee County, GA

FILED IN OFFICE
July 2, 2021
Theresa A. Bame
SUPREME COURT OF GEORGIA

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

DECLARATION OF LOCAL
JUDICIAL EMERGENCY

JULY 1, 2021

ORDER DECLARING LOCAL JUDICIAL EMERGENCY

Since March 14, 2020, the Courts of this Circuit has been operating under a series of orders from Chief Justice Harold Melton of the Supreme Court of Georgia, declaring and extending a state-wide judicial emergency. This state-wide emergency terminated on Wednesday, June 30, 2021, at 11:59 p.m.

During statewide judicial emergency, all jury trials and grand jury proceedings were suspended beginning March 14, 2020. The Chief Justice first allowed the resumption of grand jury proceedings, and the grand jury for the Blue Ridge Circuit has functioned in the normal course since February 22, 2021.

The Supreme Court allowed the resumption of jury trials by Order dated March 9, 2021, subject to public health guidance and a local jury trial plan required by the Chief Justice. Said plan, developed by a committee appointed by the Chief Judge, had already been submitted on February 12, 2021. Both Superior Court and State Court jury trials resumed in March, 2021.

While the resumption of jury trials has been an important first step, the Courts have not been able to conduct trials on large scale. Trial calendars have been limited to fewer cases. Due to the necessity of social distancing, the Courts have summoned fewer jurors. Rather than using multiple courtrooms for trials, as was the pre-pandemic practice, the Chief State Court judge's courtroom was specifically renovated to provide appropriate social distancing for all participants, and all trials have taken place therein. In order to ensure a public trial, trial proceedings have been

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broadcast in real time in a separate “viewing courtroom,” and another courtroom was used as the jury deliberation room. Travel restrictions have made it difficult to insure the availability of witnesses from out-of-state. The trial of lengthy and complicated witnesses has been unwise due to the possibility of a mistrial due to a participant contracting COVID-19 during such trial.

These necessary restrictions have resulted in a backlog of cases. The focus of jury trials since “reopening” has been on criminal cases; no civil jury trials have taken place at all. The Superior Court criminal case count is roughly three times what it was in March, 2020, the beginning of the statewide judicial emergency.¹ The current criminal caseload for Cherokee County State Court has increased by 66.14% from the beginning of the pandemic. Its civil caseload has increased by 15.22% from the beginning of the pandemic.

A backlog of this magnitude will take some time to clear, despite the diligent efforts that will be made by the judges of this Circuit. Resumption of large-scale trial calendar are anticipated in July and August of this year, and the Court will monitor the pace at which cases are being closed.

The Court finds that there exist significant circumstances in the Blue Ridge Judicial Circuit that substantially endanger or infringe upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, or the ability of litigants or others to have access to the courts or to meet schedules or time deadlines imposed by court order or rule, statute, or administrative rule or regulation. The Court therefore declares a local judicial emergency in the Blue Ridge Judicial Circuit, pursuant to O.C.G.A. § 38-3-61, and additionally ORDERS as follows:

1. Previous Emergency Orders: Since the Chief Justice’s original statewide judicial

¹ In August, 2020, the Judicial Council of Georgia had recommended the creation of a fourth Superior Court judgeship in the Blue Ridge Judicial Circuit, based on the court’s caseload from 2017-2019, and the rapid population growth of Circuit since the creation of the last new judgeship in 2007. The Judicial Council ranked the Circuit second in priority by need. The Georgia General Assembly has not yet funded the new position.

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emergency order, this Court has entered multiple orders declaring local judicial emergencies under the authority of OCGA §§ 38-3-61 and 38-3-62, as well as additional orders to confirm and implement the provisions of the Supreme Court's orders.² Any and all such orders not already expired are hereby terminated.

2. Health and Safety Measures: There is no requirement that Justice Center security personnel screen persons entering the building for COVID-19 symptoms. Mask-wearing is now voluntary. All Courts are encouraged to continue to follow public health guidance, that is, to reference to the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), and the Georgia Department of Public Health (DPH).

3. In-Person Proceedings; Jury Assembly Room: In-person proceedings are not restricted by this Order. In order to insure for proper sanitation of courtrooms and public spaces, judges are encouraged to notify the Court Administrator prior to conducting an in-person hearing. For the same reason, the Court shall continue to monitor the use of the Jury Assembly Room. Any court or office requesting use of it shall contact Lynn Epps, Court Administrator, for prior approval. Priority use shall be given to functions solely related to the holding of hearings and conducting of court.

4. Conduct of Remote Hearings: On March 27, 30, and 31 of 2020, the Supreme Court of Georgia issued orders temporarily clarifying and amending video conferencing rules of the

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; Order Declaring Local Judicial Emergency, filed July 13, 2020 at Superior Court Minute Book 201, Page 2301; Order Extending Local Judicial Emergency, filed August 12, 2020, Superior Court Minute Book 201, Page 2331; Order Declaring Local Judicial Emergency, filed December 18, 2020, Superior Court Minute Book 201, Page 2382.; Order Extending Local Judicial Emergency, filed January 15, 2021, Superior Court Minute Book 201, Page 2577; and Order Adopting Provisions of March 9, 2021, Twelfth Extension of State-wide Judicial Emergency, filed March 11, 2021 at Superior Court Minute Book 201, Page 2646.

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Superior Courts, Juvenile Courts, Magistrate Courts, Municipal Courts, and Probate Courts. By Order of the Georgia Supreme Court on June 22, 2021, those temporary amendments have been extended and shall remain in effect through June 30, 2022. In addition, those rules were additionally clarified to allow any proceeding not otherwise allowed to be conducted by video conference so long as the judge and all the parties consent, and public access is ensured as required. in said rules.

All Courts of the Blue Ridge Circuit are therefore encouraged to conduct remote hearings as authorized, to continue to maintain a degree of social distancing in the Justice Center or other court facilities, and to reserve the use of courtroom space, holding cells, and public spaces for the hearing matters that must be held in-person.

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.

5. Required Notice for Remote Hearings: Any Court scheduling a remote hearing with a self-represented litigant shall notify said litigant as follows herein.

ANY PERSON WITHOUT ACCESS TO AN ADEQUATE INTERNET CONNECTION OR TO A DEVICE WHICH WILL PERMIT REMOTE PARTICIPATION SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE PRIOR TO HEARING. THE COURT ADMINISTRATOR WILL MAKE SUCH AVAILABLE FOR PARTICIPATION IN THE HEARING AT THE JUSTICE CENTER. IF YOU ARE ORDERED OR SUMMONED TO APPEAR, AND YOU HAVE NOT MADE THESE ARRANGEMENTS PRIOR TO HEARING, YOU SHOULD STILL APPEAR AT THE JUSTICE CENTER WHEN REQUIRED, ALTHOUGH YOUR HEARING MAY BE DELAYED OR CONTINUED AT THE DISCRETION OF THE ASSIGNED JUDGE.

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6. 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.

7. Tolling Provisions: The tolling provisions enacted by the various Orders of the Chief Justice are no longer in effect. This order imposes the following tolling provisions.

A. Superior and State Court: The time for filing a statutory speedy trial demand under O.C.G.A. § 17-7-170 and §17-7-171 is hereby reinstated. However, the time allotted under those statutes for the case to be tried remains tolled for the duration of this Order.

B. Magistrate Court: The statutory deadlines for setting civil cases for trial imposed on the magistrate court by O.C.G.A. § 15-10-43(c) are suspended.

This Order shall become effective on July 1, 2021. It will terminate on July 30, 2021, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.

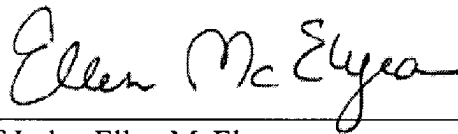
This document shall be posted at all entryways to the Justice Center, on the website of the Clerk of Court and the Court Administrator, and at the elevator entrances on all floors of the Justice Center.

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 David E. Nahmias 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

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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 1st day of July, 2021.



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

CC:

Chief Justice David E. Nahmias, 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

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