

FILED IN OFFICE

July 1, 2021

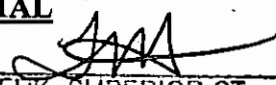
IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

FILED IN OFFICE

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SUPREME COURT OF GEORGIA

**ORDER GRANTING RELIEF FROM STATUTORY SPEEDY TRIAL  
REQUIREMENTS PURSUANT TO O.C.G.A. § 38-3-62 (b)**

  
CLERK, SUPERIOR CT  
CHATHAM COUNTY, GA

Pursuant to O.C.G.A. § 38-3-62 (b), based upon the certification attached hereto and incorporated herein as Exhibit A, the statutory speedy trial requirements imposed by O.C.G.A. §§ 17-7-170 and 17-7-171 are modified in the Superior Court of Chatham County within the Eastern Judicial Circuit as follows:

Pursuant to O.C.G.A. § 38-3-62 (b), based upon the certification attached hereto and incorporated herein as "Exhibit A," the requirements for the filing of a statutory speedy trial demand imposed by O.C.G.A. §§ 17-7-170 and 17-7-171 are hereby reinstated as of the effective date of this Order. The time constraints to bring a case to trial imposed by O.C.G.A. §§ 17-7-170 and 17-7-171 will remain tolled in the Superior Court of Chatham County within the Eastern Judicial Circuit for the duration of this Order.

Pursuant to O.C.G.A. § 38-3-62 (b) (9), an order granting relief from statutory speedy trial requirements following a judicial emergency shall not exceed a total of eight months and shall end on the last day of a term of court, and pursuant to O.C.G.A. § 38-3-62 (b) (13), no such order shall issue after June 30, 2023.

Pursuant to the Supreme Court's *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*, interrupted terms of court do not count in the calculation of deadlines and time limits for statutory speedy trial demand purposes. The June 2021 term of court has been

interrupted by the Statewide Judicial Emergency.

This Order shall become effective on September 6, 2021<sup>1</sup>, and it shall terminate on March 6, 2022, a date that is: (1) not more than eight months from its effective date; and (2) the last day of a term of the Superior Court of Chatham County, unless statutory speedy trial requirements are reinstated by the Chief Justice of the Georgia Supreme Court pursuant to O.C.G.A. § 38-3-62 (b) (11). Pursuant to O.C.G.A. § 38-3-62 (b) (12), nothing in this Order shall relieve the State of its constitutional obligation to provide for a speedy and public criminal trial.

It is hereby ORDERED that this Order shall be filed with the clerk of superior court in Chatham County to be filed in the General Docket. Pursuant to O.C.G.A. § 38-3-63 (1)-(2), it is further ORDERED that a copy of this Order be immediately served by e-mail upon the Chief Justice of the Georgia Supreme Court, the judges and clerks of all courts in this county, the clerk of the Georgia Court of Appeals, and the clerk of the Georgia Supreme Court. Further, it is ORDERED that notice of the issuance of this Order be given to the affected parties, counsel for the affected parties, and the public in a manner that meets the requirements of O.C.G.A. § 38-3-63 (3) and specifically as follows:

This Order shall be published at <https://courts.chathamcountyga.gov/>, on the website of the at the Superior Court Clerk's Office, the website for the Superior Courts of the Georgia First Administrative District, and at the entrance of the courthouse. Copies shall be available at the

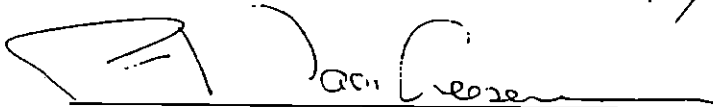
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<sup>1</sup> The Chatham County Superior Court is in the June 2021 term of court as of the entry of this Order. As noted above, the June 2021 term is an "interrupted term," as defined in the Supreme Court's "Guidance" document referenced above. Because interrupted terms of court "do not count in the calculation of deadlines and time limits for statutory speedy trial demand purposes," the Superior Court of Chatham County has elected to make this Order effective beginning with the next full, uninterrupted term of court in Chatham County, which is the September 2021 term.

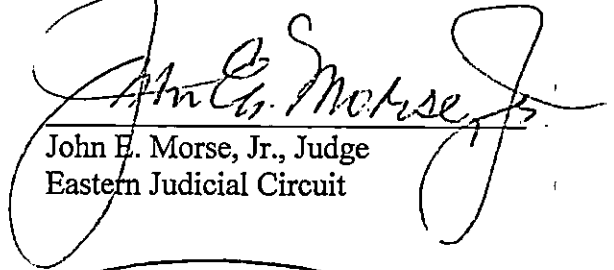
Office of the Clerk of the Superior Court and shall be prominently posted where similar public announcements are posted.

A digital notice that this Order exists shall be posted on the Superior Court Clerk's digital signs located throughout the courthouse, along with the information that a copy can be obtained through the Superior Court Clerk's website. A copy shall also be disseminated to the Chatham County Public Information for dissemination to the various news outlets.

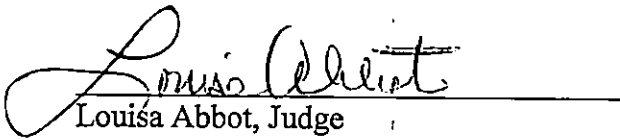
SO ORDERED this 1 day of July, 2021.



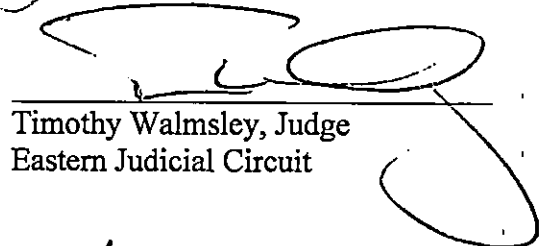
Penny Haas Freese, Chief Judge  
Eastern Judicial Circuit



John E. Morse, Jr., Judge  
Eastern Judicial Circuit



Louisa Abbot, Judge  
Eastern Judicial Circuit



Timothy Walmsley, Judge  
Eastern Judicial Circuit



Benjamin W. Karpf, Judge  
Eastern Judicial Circuit



Lisa Goldwire Colbert, Judge  
Eastern Judicial Circuit

cc: Chief Judge, Georgia Supreme Court  
Richard Denney, First District Court Administrator  
Crystal Cooper, Eastern Judicial Circuit Administrator  
Tammie Mosley, Superior Court Clerk, Eastern Judicial Circuit  
All Judges, Superior Court, Eastern Judicial Circuit of Georgia  
All Chatham County Judges and Clerks of Court  
Chatham County District Attorney  
Eastern Judicial Circuit Public Defender  
President, Savannah Bar Association

## EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62 (b) (3), the active Superior Court Judges of the Eastern Judicial Circuit unanimously certify as follows:

(1)

Pursuant to O.C.G.A. § 38-3-62 (b) (2), under the totality of the circumstances arising from the statewide judicial emergency first declared by the Chief Justice of the Georgia Supreme Court pursuant to O.C.G.A. § 38-3-61 on the 14th day of March, 2020 and ending on the 30th day of June, 2021, inclusive of any modifications or extensions thereof, compliance with the statutory speedy trial requirements established in O.C.G.A. §§ 17-7-170 and 17-7-171 is impracticable in the Superior Court of Chatham County within the Eastern Judicial Circuit.

(2)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (i), the pending criminal case volume in the Superior Court of Chatham County is substantially above the average pending criminal case volume that existed at the end of each of the three full calendar years immediately preceding the initial declaration of the applicable judicial emergency. The pending criminal case volume in the Superior Court of Chatham County currently totals 4,865 cases, plus an additional 3,449 cases that the District Attorney has not yet indicted or accused. The pending criminal case volume that existed in 2019 totaled 2,188; the pending criminal case volume that existed in 2018 totaled 1,287; and the pending criminal case volume that existed in 2017 totaled 2,308.

(3)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (ii), the annualized criminal case clearance rate in the current calendar year in the Superior Court of Chatham County is substantially below the average criminal case clearance rate for each of the three full calendar years immediately preceding the initial declaration of the applicable judicial emergency. The annualized criminal case clearance rate in the Superior Court of Chatham County in the current calendar year is 28 percent; the annualized criminal case clearance rate that existed in 2019 was 89 percent; the annualized criminal case clearance rate that existed in 2018 was 81 percent; and the annualized criminal case clearance rate that existed in 2017 was 88 percent.

(4)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (iii), the number of speedy trial demands pending within one month of the date of this certification in the Superior Court of Chatham County

totals six (6). With over 4,800 criminal cases currently pending and over 3,400 additional cases not yet indicted or accused, the Court anticipates that this number may increase exponentially when the termination of the judicial emergency order terminates on June 30, 2021.

(5)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (iv), the number of jury trials held during the last full term of court in the Superior Court of Chatham County was zero (0). The number of jury trials held during the last full term of court in the Superior Court of Chatham County during which jury trials were held (December 2019 term) was 18.

(6)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (v), the following ongoing space limitations or other health or safety concerns exist within the Superior Court of Chatham County that limit the use of facilities available to conduct criminal trials and related activities: Of the six Superior Court courtrooms, only two are of sufficient size and outfitting (e.g., plexiglass) to accommodate criminal jury trials at this time. Of the remaining four courtrooms, two are designated as jury deliberation rooms because the trial court rooms do not have sufficiently large deliberation rooms.<sup>1</sup> As a result, while four courtroom resources have been allocated for criminal jury trials exclusively, only a maximum of two criminal jury trials can be conducted each week.

(7)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (vi), there is a limited availability of judges, courtroom personnel, prosecutors, public defenders, expert witnesses, forensic analysis, law enforcement officers, or other relevant persons in the Superior Court of Chatham County, as follows: One of the six Judges of the Superior Court of Chatham County has been appointed to preside over a lengthy criminal trial in another jurisdiction during the period of this Order; due to limited availability of funds for visiting judges, the Superior Court of Chatham County may not be able to secure a visiting judge to preside over criminal trials in his absence. The Court also anticipates limited availability of other relevant persons such as prosecutors, public defenders, and law enforcement officers; the District Attorney's Office, Office of the Public Defender, and

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<sup>1</sup> The Community Transmission Index (CTI) of COVID-19 in Chatham County has ranged from "Moderately High" to "Moderate" during June 2021. The Director of the Coastal Health District of the Georgia Department of Health has advised the Court that deliberation rooms cannot be used for jury trials until the CTI is 25 or less for at least seven days. To date in June 2021, the CTI has ranged between 71 and 41; at no time has it dipped below 41. See <https://covid19.gachd.org/chatham-county-covid-19-data/>.

Sheriff's Office either have requested additional positions and been denied due to adequate funding or have open positions and been unable to fill them due to the tightness of the current labor market.

(8)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (vii), the extent of efforts made by prosecuting attorneys and the court to reduce the number of criminal defendants held in custody awaiting trial in the Superior Court of Chatham County are as follows: During the pendency of the judicial emergency, the Court, the District Attorney's Office, the Office of the Public Defender and criminal defense bar undertook substantial efforts to reduce the number of criminal defendants held in custody awaiting trial. The frequency and size of the plea dockets and bond hearings and the level of cooperation between the District Attorney's Office and the Office of Public Defender and criminal defense bar were unprecedented.

(9)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (viii), other relevant facts that justify ongoing relief from statutory speedy trial requirements in the Superior Court of Chatham County are as follows: As outlined in Paragraph (6), because of space limitations and current health and safety concerns in Chatham County, only two criminal jury trials can be held in Superior Court each week. As soon as health conditions improve and safety concerns subside, the Court plans to resume criminal jury trials in all six Superior Court courtrooms. With six active Judges and only six available courtrooms, however, the Court will be unable to enlist one or more Senior Judges to assist with the backlog and anticipated volume of speedy trial demands; there are no extra courtrooms in which a Senior Judge could preside. As such, the Court believes that this Order is necessary both under current conditions and under anticipated improved conditions.

(10)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), the following plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible in the Superior Court of Chatham County has been established. It is hereby ordered that any case in which a valid statutory speedy trial demand has been filed shall be prioritized for trial, with the highest priority being given to any such case in which: (1) the defendant is in custody while awaiting trial; and (2) the defendant is in custody as a result of the charges in the case in which the statutory speedy trial demand has been filed. Such cases shall be further prioritized for trial based upon the length of time that the defendant has remained in custody awaiting trial. Additionally, the following specific

plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible shall apply in the Superior Court of Chatham County during the time this Order remains in effect: To ensure that trial time and resources are used, the Court will continue to schedule multiple cases for the same trial date, thereby increasing the likelihood that two cases are tried weekly even if some cases resolve via last-minute plea agreements. When an active Judge is presiding over a case in another jurisdiction during that Judge's scheduled trial week, another active Judge (or Senior Judge, where funding is available) will use that Judge's trial week where practicable. Moreover, the Court will continue to explore alternative suitable spaces outside the courthouse where trials may be conducted and seek to contract for that space if identified.

(11)

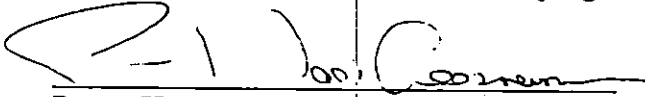
Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the Superior Court of Chatham County, Judge Penny Haas Freeseemann has been scheduled for nine (9) trial weeks during the period of this Order; Judge John E. Morse, Jr. has been scheduled for nine (9) trial weeks during the period of this Order; Judge Louisa Abbot has been scheduled for eight (8) trial weeks during the period of this Order; Judge Timothy R. Walmsley has been scheduled for eighteen (18) trial weeks during the period of this Order but may be unavailable for six (6) of those weeks due to an appointment to preside over a criminal trial in another jurisdiction; Judge Benjamin Karpf has been scheduled for seventeen (17) trial weeks during the period of this Order; and Judge Lisa Goldwire Colbert has been scheduled for nine (9) trial weeks during the period of this Order.

As outlined in Paragraph (6), because of space limitations and current health and safety concerns in Chatham County, only two criminal jury trials can be held in Superior Court each week, resulting in a relatively low number of trial weeks per judge during the period of this Order. As soon as health conditions improve and safety concerns subside, the Court plans to resume criminal jury trials in all six Superior Court courtrooms. It is anticipated that this will result in an increase in the number of trial weeks per judge beyond the conservative figures provided above.

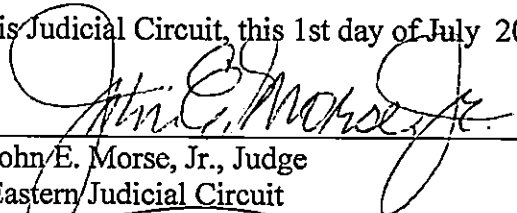
This Order has been entered:

- by the undersigned Chief Judge pursuant to O.C.G.A. § 38-3-62 (b) (3) (A); or
- at the request of a majority of the active judges of this Court who are serving in this Judicial Circuit as evidenced by their written request, which is attached as Exhibit B to this Order, pursuant to O.C.G.A. § 38-3-62 (b) (3) (B) (i).

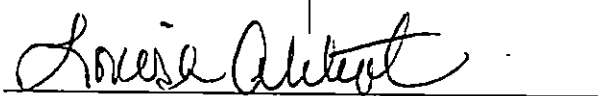
So certified by all of the active judges of this Judicial Circuit, this 1st day of July 2021.




Penny Haas Freeseemann, Chief Judge  
Eastern Judicial Circuit



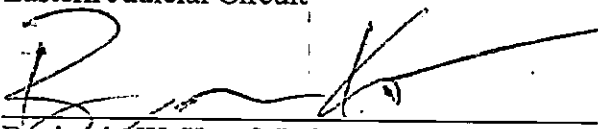
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Eastern Judicial Circuit