

IN THE SUPERIOR COURT OF CRISP COUNTY
STATE OF GEORGIA

FILED IN OFFICE

July 8, 2021

Theresa A. Baine

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

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 effective August 2, 2021. The time restraints 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 Crisp County within the Cordele 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 May 2021 term of court having been interrupted by the Statewide Judicial Emergency, this Order shall become effective at the beginning of the August term on August 2, 2021, and it shall terminate on February 20, 2022, a date that is: (1) not more than eight months from the date it is entered; and (2) the last day of a term of the Superior Court of Crisp 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 Crisp 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 Notice shall be provided to the Office of the District Attorney and Office of the Public Defender via email or regular mail. Notice shall be provided to defendants and/or their counsel of record along with their Arraignment notices and other hearing notices. Notice shall be posted on the doors to the courthouses and in the lobbies of the Offices of the Clerks of Superior Court. Notice shall be posted on the Eighth Judicial Administrative District website. Notice shall be posted outside the doors to the courtrooms.

SO ORDERED this 1 day of July, 2021.

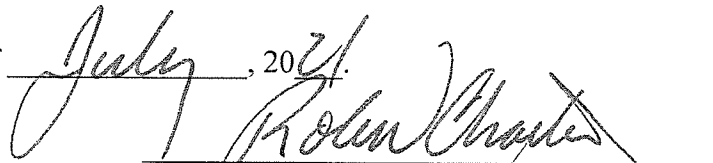

ROBERT W. CHASTEEN, JR.
CHIEF JUDGE, SUPERIOR COURTS
CORDELE JUDICIAL CIRCUIT

EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62 (b) (3), a majority of the active Superior Court Judges of the Cordele Judicial Circuit certifies 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 Honorable Harold D. Melton, Chief Justice of the Supreme Court of Georgia, 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. §§ 17-10-170 and 17-10-171 is impracticable in the Superior Court of Crisp County within the Cordele 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 Crisp 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 Crisp County currently totals 661; the pending criminal case volume that existed in (2019) totaled 315; the pending criminal case volume that existed in (2018) totaled 183; and the pending criminal case volume that existed in (2017) totaled 188.

(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 Crisp 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 Crisp County in the **current calendar year is: 32.3 percent**; the annualized criminal case clearance rate that existed in (2019) was: 81.9 percent; the annualized criminal case clearance rate that existed in (2018) was: 101.5 percent; and the annualized criminal case clearance rate that existed in (2017) was: 99.4 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 Crisp County totals: six.

(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 Crisp County was four.

(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 Crisp County that limit the use of facilities available to conduct criminal trials and related activities:

The Crisp County Courthouse contains two courtrooms that are large enough to accommodate a criminal jury trial. However, the arrival of jurors must be carefully scheduled and monitored, as there is insufficient space in the courthouse to accommodate the selection of two juries simultaneously for criminal jury trials. If jurors are required to socially distance, we only have sufficient space to accommodate one criminal jury trial at a time. A lengthy criminal trial could result in merely one criminal case being disposed of during a criminal trial term.

(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 Crisp County, as follows:

The Cordele Judicial Circuit is comprised of four counties. Prior to the pandemic, we had a minimum of two jury trial weeks in our circuit per month, and there were times when we had five consecutive jury trial weeks when our trial terms ran back to back. Because we have to fit 34 trial weeks into our yearly calendars, it is extremely difficult for us to add or specially set additional trial weeks. Our circuit district attorney and public defender's offices lack the staff to add additional trial weeks to our loaded jury trial schedules. Further, we have difficulty procuring the attendance of law enforcement officers, forensic analysts, and crime lab experts, as they are pulled away from their employment duties when their attendance is required for trials, and they are required to testify in hearings and trials across the state.

Because Crisp County is part of a four county circuit, adding jury trial weeks in one county impacts criminal hearings scheduled in the other counties. Our prosecutors, public defenders, and expert witnesses are unable to appear for bond hearings, probation revocation hearings, criminal calendar calls, arraignments, and other criminal hearings when their attendance is required for jury trials. Further, we have to postpone some of our criminal hearings when we add jury trial weeks, as a judge is unable to preside over trials and hearings simultaneously.

Crisp County does not have a crime lab, and we compete for access to drug testing and the availability of crime lab experts to testify as witnesses in hearings and trials. Medical examiners are also particularly difficult to pin down, as they subpoenaed to testify in hearings and trials across the state.

(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 Crisp County are as follows:

Our circuit never ceased providing access to the courts for criminal defendants during the COVID-19 pandemic. We began using the Starleaf and Zoom programs to provide video hearings in early April of 2020. We consistently used the Starleaf, Zoom, and WebEx programs to hold bond hearings, bond reconsideration hearings, motions for new trial, motions to withdraw guilty pleas, petitions for writ of habeas corpus, and countless other motions. We met with our sheriffs, emergency management, and public health officials in each of our four counties to create Covid-19 operating guidelines for our courthouses so that we could have in person hearings while complying with all public health mandates for screening, social distancing, sanitizing, etc. We staggered the times for our hearings so that we could address several hearings while having as few people in the courtrooms at one time as possible. We installed equipment that would allow our hearings to be live-streamed. We also purchased equipment that would allow witnesses and other court participants to appear for trials and hearings remotely. All of these measures were implemented to provide access to the courts for criminal defendants, and we were able to significantly reduce the number of people in custody and awaiting trial.

In an effort to reduce the number of criminal defendants held in custody awaiting trial, we schedule initial bond hearings as soon as possible. We routinely hear motions for reconsideration of bond, too. Our judges review county jail lists each week to identify defendants who may be

eligible for early release or special consideration. Judges review jail lists to determine which defendants need an additional bond hearing, a bond reduction hearing, or any other court appearance to enable the defendant to be released from jail while he or she awaits trial.

We closely followed Justice Melton's Guidance for Resuming Jury Trials in creating procedures for the resumption of jury trials and resumed holding jury trials as soon as the statewide moratorium on trials was lifted.

(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 Crisp County, if any, are as follows:

Presently, O.C.G.A. § 15-6-3 (13) only provides for four terms of court in Crisp County per year. This means there are only six weeks for criminal trials; we presently have 661 pending criminal cases, and there are sixteen people charged with murder. A murder case typically takes at least one week to try. If we attempted to try murder cases only, it would take over two years to dispose of them, and we would be unable to address the backlog of other criminal cases, including other serious felony cases. If we were required to try cases with statutory speedy trial demands within two terms of their filing, we would have to add extra criminal jury trial weeks in Crisp County. This would result in reducing the number of bond and other types of criminal hearings in both Crisp County and our other three counties. It would create a burden for the Crisp County Sheriff's Office and for the Office of the District Attorney and Office of the Public Defender.

Further, the Department of Corrections is not transporting inmates for trials or other court appearances. We have pending cases in which a material witness is incarcerated; however, we have to continue those trials because the attendance of the incarcerated witness cannot be procured for trial.

(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 Crisp 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 Crisp County during the time this Order remains in effect:

The Court plans to use the civil week for each term of court in Crisp County to try criminal cases. This will provide an additional week of criminal trials at each term of court for a total of four additional weeks for the calendar year. Priority may be given in a case where the alleged victims are particularly aggrieved, such as child victims or those who have suffered a large economic loss.

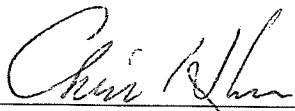
(11)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the Superior Court of Crisp County, Judge Robert W. Chasteen, Jr. has been scheduled for three trial weeks during the period of this Order; Judge T. Christopher Hughes has been scheduled for one trial week during the period of this Order; and Judge Denise D. Fachini has been scheduled for two trial weeks during the period of this Order.

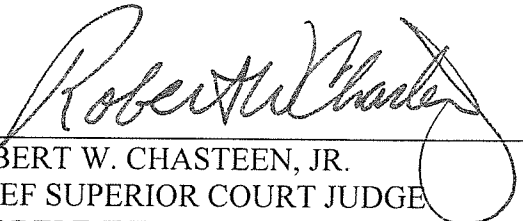
This Order has been entered:

- 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).

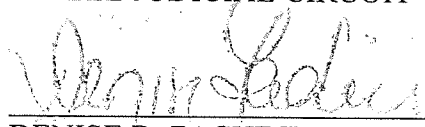
So certified by a majority of the active judges of this Judicial Circuit, this 1st day of July, 2021.



T. CHRISTOPHER HUGHES
SUPERIOR COURT JUDGE
CORDELE JUDICIAL CIRCUIT



ROBERT W. CHASTEEN, JR.
CHIEF SUPERIOR COURT JUDGE
CORDELE JUDICIAL CIRCUIT



DENISE D. FACHINI
SUPERIOR COURT JUDGE
CORDELE JUDICIAL CIRCUIT

SUPERIOR COURTS
CORDELE JUDICIAL CIRCUIT
BEN HILL, CRISP, DOOLY & WILCOX COUNTIES

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JUDGE DENISE D. FACHINI
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CORDELE, GA 31010
PHONE 229-271-4722
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CHIEF JUDGE ROBERT W. CHASTEEN, JR.
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June 24, 2021

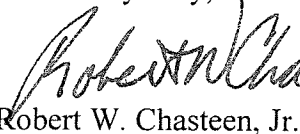
Ms. Tara Hayslip
Clerk of Superior Court of Crisp County
P.O. Box 747
Cordele, GA 31010

**RE: ORDER GRANTING RELIEF FROM STATUTORY SPEEDY TRIAL
REQUIREMENTS PURSUANT TO O.C.G.A. § 38-3-62 (b) and
CERTIFICATION ATTACHED AS "EXHIBIT A"**

Dear Ms. Hayslip:

On July 1, 2021, please enter upon the Minutes of the Court the enclosed Order Granting Relief from Statutory Speedy Trial Requirements Pursuant to O.C.G.A. § 38-3-62(b) and Certification Attached thereto as "Exhibit A." It is imperative that your office files and enters the Order on the morning of July 1, 2021. Thank you for your assistance, and please do not hesitate to contact me if you have any questions.

Yours very truly,


Robert W. Chasteen, Jr.

Encl.

cc: Judge Denise D. Fachini (w/copy of Encl.)
Judge T. Christopher Hughes (w/copy of Encl.)
District Attorney Brad Rigby (w/copy of Encl.)
Chief Public Defender Tracy Mullis (w/copy of Encl.)