

FILED IN OFFICE

July 1, 2021

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HENRY COUNTY
SUPERIOR COURT

Theresa A. Baine

IN THE SUPERIOR COURT OF HENRY COUNTY
STATE OF GEORGIA

JUL 01 2021

SUPREME COURT OF GEORGIA

SECOND ORDER GRANTING RELIEF FROM STATUTORY SPEEDY TRIAL

REQUIREMENTS PURSUANT TO O.C.G.A. § 38-3-62 (b)

The Order entered by this court on June 30, 2021 entitled ORDER GRANTING RELIEF FROM STATUTORY SPEEDY TRIAL REQUIREMENTS PURSUANT TO O.C.G.A. § 38-3-62 (b) is hereby vacated and the following order is hereby entered:

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 suspended in the Superior Court of Henry County within the Flint Judicial Circuit.

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. Accordingly, this Order is issued on this 1st day of July, 20 21, and it shall terminate on the 23rd day of January, 20 22, 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 Henry 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 Henry 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

ORDER SUSPENDING DEADLINES UNDER O.C.G.A. § 38-3-62 (b)

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: publication in the Henry Herald, posting of notice at the Courthouse, posting of notice on the county website and distribution to the Henry County Bar Association.

SO ORDERED this 1 day of July, 2021.



Brian J. Amero, Chief Judge
Flint Judicial Circuit

EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62 (b) (3), Chief Judge Brian J. Amero of the Flint 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 Supreme Court of Georgia Chief Justice Harold Melton 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 Henry County within the Flint 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 Henry 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 Henry County currently totals: 1994 ; the pending criminal case volume that existed in (2019) totaled: 1628 ; the pending criminal case volume that existed in (2018) totaled: 1753 ; and the pending criminal case volume that existed in (2017) totaled 1879 .

(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 Henry 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 Henry County in the current calendar year is: 21.34 percent; the annualized criminal case clearance rate that existed in (2019) was: 48.7 percent; the annualized criminal case clearance rate that existed in (2018) was: 43 percent; and the annualized criminal case clearance rate that existed in (2017) was: 36.3 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 Henry County totals: 3.

(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 Henry County was 3.

(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 Henry County that limit the use of facilities available to conduct criminal trials and related activities: Department of Public Health guidance and social distancing protocols have limited the space available in the courthouse to one courtroom for conducting jury trials. Offsite locations that were viewed and offered were not conducive to conducting a jury trial without safety and security issues. However, as soon as the Department of Public Health authorizes the use of more than one courtroom during trial weeks, more trials will be allowed to take place.

(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 Henry County, as follows: current social distancing protocols prevent full staff in the one available courtroom during the trial. Immune compromised individuals continue to need to be excused due to the potential threat of exposure to the virus.

(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 Henry County are as follows: the Court has added audio and visual technology to each courtroom so that hearings may be conducted virtually. The Court has taken significant steps to allow reasonable bonds for non-violent offenders. The Court has added hearing dates to aid in the disposition of cases in a timely manner and held open plea dates for any defendant wishing to enter a plea. The Court has added Pre-Trial Calendars to aid in the discussion

of dispositions of cases. The Court has been in constant contact with the Department of Public Health and has modified its procedures and protocols to safely and effectively continue to conduct hearings. Further, upon the approval of the Department of Public Health, jury trials will resume in all courtrooms during trial weeks. Additionally, the court is considering further modifications of its calendars to add additional trial weeks where feasible.

(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 Henry County, if any, are as follows: in 2020 the Flint Judicial Circuit was granted a resolution for a fourth Superior Court Judge after an extensive caseload assessment was made. This was put on hold until January, 2022 due to budget cuts that occurred because of the COVID-19 pandemic. Because of the Court's inability to hold jury trials, since March 14, 2020, the number of pending criminal cases has gone from 1561 pending criminal cases to 1994 pending criminal cases, which is a 27.74% increase in cases; and, there have been a significant number of recently filed indicted and accused cases for which speedy trial relief could potentially become available immediately upon the expiration of the Statewide Judicial Emergency Order.

(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 Henry 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 Henry County during the time this Order remains in effect: The Court will try the oldest speedy trial demands first in the only available courtroom we have in Henry County, Georgia.

(11)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the Superior Court of Henry County, Judge Brian J. Amero has been scheduled for 3 trial weeks during the period of this Order; Judge Holly Veal has been scheduled for 3 trial weeks during the period of this Order; Judge Pandora E. Palmer has been scheduled for 2 trial weeks during the period of this Order.

This Order has been entered:

- by the undersigned Chief Judge pursuant to O.C.G.A. § 38-3-62 (b) (3) (A) and all Judges are in agreement with this order being 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).

(Chief Judge signature – use if O.C.G.A. § 38-3-62 (b) (3) (A) is checked above)

So certified by the Chief Judge of this Judicial Circuit, this 1 day of July, 2021.

Chief Judge, Superior Court
Flint Judicial Circuit

(majority of active judges signatures – use if O.C.G.A. § 38-3-62 (b) (3) (B) (i) checked above)

So certified by a majority of the active judges of this Judicial Circuit, this _____ day of _____, 20____.

_____, Judge

Judicial Circuit

_____, Judge

Judicial Circuit

_____, Judge

Judicial Circuit

_____, Judge

Judicial Circuit