

IN THE SUPERIOR COURT OF GORDON COUNTY
STATE OF GEORGIA

GORDON
FILED
Clerk Superior Ct., Gordon County

JUL 01 2021

Grant Walraven
Clerk

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

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 and tolled in the Superior Court of Gordon County within the Cherokee 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, 2021, and it shall terminate on the 5th day of December, 2021, 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 Gordon 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 Gordon 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:

- 1) It shall be filed in the General Docket of Superior Court of Gordon County.
- 2) It shall be hand delivered to the offices of the District Attorney and the Public Defender of the Cherokee Judicial Circuit.
- 3) It shall be mass emailed to all members of the Gordon County Bar Association.
- 4) It shall be posted at the entrance to the Gordon County Courthouse.

SO ORDERED this 1st day of July, 2021



D. Scott Smith, Chief Judge
Cherokee Judicial Circuit

EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62 (b) (3), of the Cherokee 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 Chief Justice of the 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 Gordon County within the Cherokee 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 Gordon 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 Gordon County currently totals: 1082 on the actual trial calendar. There are currently hundreds of defendants waiting to be arraigned; the total pending criminal case volume that existed in (2019) totaled: 755; the total pending criminal case volume that existed in (2018) totaled: 804; and the total pending criminal case volume that existed in (2017) totaled 646 .

(3)

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 Gordon County totals: 0 .

(4)

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 Gordon County was 2 .

(5)

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 Gordon County that limit the use of facilities available to conduct criminal trials and related activities. The Gordon County

Superior Court is limited to two (2) courtrooms available to entertain jury trials. This is due to spacing requirements and the fact that current courthouse is under construction.

(6)

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 Gordon County are as follows: We have conducted both in-person and virtual non-jury court appearances for in-custody inmates. The Superior Court has also begun to hear jury trials. The calendars are limited to only in-custody defendants.

(7)

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 Gordon County, if any, are as follows: The number of defendants awaiting jury trial has grown to an unmanageable number. Due to spacing requirements, the size of calendars is limited.

(8)

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 Gordon 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 Gordon County during the time this Order remains in effect: This Court will also use designated civil jury trial calendars to hear criminal jury trials if time allows.

(9)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the Superior Court of Gordon County, Judge D. Scott Smith has been scheduled for 2 trial weeks during the period of this Order; Judge

Suzanne H. Smith has been scheduled for 3 trial weeks during the period of this Order; Judge Jeffrey A. Watkins 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);

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



D. Scott Smith, Chief Judge
Superior Court
Cherokee Judicial Circuit