

FILED IN OFFICE

12/27/2022

Theresa A. Bame

SUPREME COURT OF GEORGIA

**IN THE SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT
STATE OF GEORGIA**

2022-EX-002107



In Re:

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

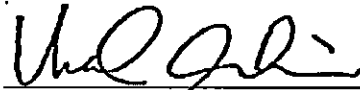
Pursuant to O.C.G.A. § 38-3-62(b) and based upon the findings and certification attached hereto and incorporated herein as Exhibit A, this Court hereby suspends, tolls, extends, and otherwise grants relief from the statutory speedy trial time deadlines established in O.C.G.A. §§ 17-7-170 and 17-7-171 in the Atlanta 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. This Court previously entered an order suspending the speedy trial deadlines from 12:00 a.m. on the 2nd day of May 2022 until 11:59 p.m. on the 1st day of January 2023. Accordingly, this Order is effective at 12:00 a.m. on the 2nd day of January 2023 and it shall terminate at 11:59 p.m. on the 2nd day of July 2023, a date that is: (1) not more than eight months from the date the order is entered and (2) the last day of a term of court for the Atlanta Judicial Circuit. 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 of Fulton 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. It is additionally 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), including but not limited to posting the Order and Certification on this Court's website, posting the Order and Certification in conspicuous areas of the Fulton County Courthouse Complex, and sending copies of the Order and Certification to local bar associations, as has been done with all previous emergency orders issued by this Court.

SO ORDERED this 27th day of December 2022.



Ural Glanville, Chief Judge
Superior Court of Fulton County
Atlanta Judicial Circuit

EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62(b)(3), the Chief Judge of the Atlanta Judicial Circuit CERTIFIES, as required by O.C.G.A. § 38-3-62(b)(4)(B), that 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 Fulton County in the Atlanta Judicial Circuit. Specifically, the undersigned 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 declared by the Chief Justice of the Georgia Supreme Court pursuant to O.C.G.A. § 38-3-61 on March 14, 2020, and ending on June 30, 2021, and the local judicial emergency declared by the preceding Chief Judge of the Atlanta Judicial Circuit on July 1, 2021, and ending at 11:59 p.m. on September 28, 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 Fulton County in the Atlanta Judicial Circuit.

Pursuant to O.C.G.A. § 38-3-62(b)(2)(B)(i), the pending criminal case volume in the Superior Court of Fulton County **of indicted felony cases** currently totals **4,227**. It is critical to note that the number of felony criminal cases having been indicted during the statewide and local judicial emergencies is substantially lower than the number of persons arrested for felony charges during that same period. The pending criminal case volume of **unindicted felony cases** (*i.e.*, the number of defendants arrested for felony criminal charges whose cases have not yet been presented to the grand jury) totals **13,787**. Thus, the combined total of pending **unindicted and indicted felony criminal matters** is **18,014**.

The pending **indicted** criminal case volume that existed in 2019 totaled 4,918 cases; the pending criminal case volume that existed in 2020 totaled 4,723 cases; and the pending criminal case volume that existed in 2021 totaled 3,425 cases.

(2)

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 Fulton County is set forth below, along with 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 Fulton County in the most recent calendar year is 102%. However, as noted above, the number of felony criminal cases having been indicted during the statewide and local judicial emergencies is substantially lower than the number of persons arrested for felony charges during that same period. Thus, the current year clearance rate does not accurately portray the rate of the disposition of all pending (albeit unindicted) criminal matters.

The annualized criminal case clearance rate in 2020 was: 97.5 %; the annualized criminal case clearance rate in 2019 was: 80 %; and the annualized criminal case clearance rate in 2018 was: 83.5 %. The higher rate in 2021 is due in part to more efficient operations (thanks to wise investment of pandemic relief funds) but also, significantly, to fewer indictments (thus less volume to clear) and the recognition by many defendants that waiting for trial is not a viable option.

(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 Fulton County is 95.

(4)

Pursuant to O.C.G.A. § 38-3-62(b)(2)(B)(iv), the number of jury trials held during the most recent full Term of Court was 13. This figure reflects a significant improvement over the complete shutdown of jury proceedings during the depths of the pandemic, but trial output remains constrained by intermittent surges of the corona virus; availability of defense counsel, especially conflict and C-3 attorneys, and the periodic absence of essential witnesses due to illness.

(5)

Pursuant to O.C.G.A. § 38-3-62(b)(2)(B)(v), there remain space limitations and other health and safety concerns within the Superior Court of Fulton County that constrain our ability to conduct criminal trials and related activities. In particular, the persistent public health risks of the community spread of COVID-19 – especially with the winter surge we are now experiencing, with COVID mixing with flu and other contagions – limits the Court’s ability to fully utilize the facilities of the Superior Court of Fulton County. First, our Court continues to require (in addition to other precautions) masking in all public spaces and courtrooms. Second, our efforts to work through the backlog of untried criminal cases requires courtroom space beyond our current capacity: there are fewer courtrooms than the combination of active and senior judges being deployed to try cases. This will remain true despite our Court’s acquisition of additional space outside the Courthouse facilities that will be used for the hearing and trial of matters that do not

present significant security risks. Additionally, as the largest and busiest Court in our State, the Superior Court of Fulton County continues to face space and security limitations as to the transport and holding of inmates brought to the Courthouse, as well as space limitations regarding the summoning of jurors for jury selection.

(6)

Pursuant to O.C.G.A. § 38-3-62(b)(2)(B)(vi), certain personnel essential for criminal trials remain limited in their availability. This is immediately true of appointed counsel for defendants the Circuit Public Defender's Office cannot represent due to legal conflict. It is also true for forensic analysts and experts, who remain stretched thinly across the State. It will become increasingly true of judges and courtroom personnel as the Court expands its efforts to use senior judges to assist in trying criminal cases, as senior judge resources are in short supply as many superior courts across the state vie for those same individuals (and when we do secure their assistance, we need to replicate courtroom staff for each).

(7)

Pursuant to O.C.G.A. § 38-3-62(b)(2)(B)(vii), the District Attorney's Office, the Circuit Public Defender's Office, and the Court have partnered in joint efforts to reduce the number of criminal defendants held in custody awaiting trial. These initiatives include prioritizing in-custody defendants for trial, regularly reviewing the County jail census to identify cases that can be resolved short of indictment and/or trial, and renewing an emphasis on alternative resolutions such as Accountability Courts and other diversionary programs. Also, our Court system is using two concurrent grand juries as authorized by O.C.G.A. § 15-12-163 to boost our indictment output (although this will, in the short term, compound our logistical struggles with trials as this increase in indicted cases yields greater demand for juries). Finally, the District Attorney's Office has grown its staff dedicated to the review and preparation of serious violent felony cases, which comprise the majority of unindicted jail cases.

(8)

Pursuant to O.C.G.A. § 38-3-62(b)(4)(B), the Superior Court of Fulton County has developed the following plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible: 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 cases in which the defendant is in custody as a result of the charges for 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, utilizing funds allocated to the court system in Fulton County by the Fulton County Board of Commissioners from both general funds and monies received under the American Rescue Plan Act of 2021 (“ARPA”), our Court expanded its capacity to adjudicate cases through the increased use of technology-enabled remote proceedings as well as the addition of personnel in this Court and in all other agencies within our criminal justice system in Fulton County.

(9)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the Superior Court of Fulton County, jurors will be made available on an as needed basis for felony criminal cases, consistent with public health conditions, permitting each of the 15 active Superior Court judges who handle felony criminal matters to schedule at least two trial weeks per month 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 this 27th day of December, 2022.



Ural Glanville, Chief Judge
Superior Court of Fulton County
Atlanta Judicial Circuit