

FILED IN OFFICE

11/1/2021

*Theresa A. Bame*

SUPREME COURT OF GEORGIA

IN THE SUPERIOR COURT OF BRYAN COUNTY

STATE OF GEORGIA

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

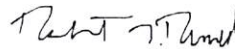
Pursuant to O.C.G.A. § 38-3-62(b), based upon the certification attached hereto and incorporated herein as Exhibit "A", the statutory speedy trial requirements imposed by O.C.G.A. §§ 17-7-170 and 17-7-171 are suspended, tolled, extended and modified in the Superior Court of Bryan County within the Atlantic 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 extension of that certain Tolling Order entered on July 1, 2021, is issued and shall be effective on the 31<sup>st</sup> day of October, 2021, and it shall terminate on the 20<sup>th</sup> day of March, 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 Bryan County, unless statutory speedy trial requirements are reinstated by the Chief Justice of the Supreme Court of Georgia 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 Bryan County, Georgia, 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 Supreme Court of Georgia. 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).

**SO ORDERED**, this 29<sup>th</sup> day of October, 2021.



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**HON. ROBERT L. RUSSELL, III**  
Chief Judge, Superior Court of Bryan County  
Atlantic Judicial Circuit

**ORDER SUSPENDING DEADLINES  
UNDER O.C.G.A. § 38-3-62(b)  
EXHIBIT "A" – CERTIFICATION**

Pursuant to O.C.G.A. § 38-3-62(b)(3), the Chief Judge of the Atlantic 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 Chief Justice Harold D. Melton, of the Supreme Court of Georgia, pursuant to O.C.G.A. § 38-3-61 on the 14<sup>th</sup> of March, 2020, and ending on the 30<sup>th</sup> day of June, 2021, inclusive of any modifications or extensions thereof, compliance is impracticable in the Superior Court of Bryan County within the Atlantic 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 Bryan 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 Bryan County currently totals: 153; the pending criminal case volume that existed in 2019 totaled: 558; the pending criminal case volume that existed in 2018 totaled: 587; and the pending criminal case volume that existed in 2017 totaled 644.

3.

Pursuant to O.C.G.A. § 38-3-62(b)(2)(B)(ii), the annualized criminal case clearance rate in the current year in the Superior Court of Bryan 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 clearance rate in the Superior Court of Bryan County in the current calendar year is: 53.99%; the annualized criminal case clearance rate that existed in 2019 was 114.89%; the annualized criminal case clearance rate that existed in 2018 was 128.36%; and the annualized criminal case clearance rate that existed in 2017 was 96.14%.

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 Bryan County totals one (1).

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 Bryan County was zero (0).

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 Bryan County that limit the use of facilities available to conduct criminal trials and related activities: the Bryan County Courthouse is an older, traditional courthouse with two courtrooms shared by all the Judges of the Superior Court and Judges of the inferior courts of Bryan County. With such space limitations, the Judges of the Superior Court are limited in the number of trials that may be conducted.

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, jurors, expert witnesses, forensic analysis, law enforcement officers, or other relevant persons in the Superior

Court of Bryan County as follows: As is the case with other courthouses in the Atlantic Judicial Circuit, and as set forth above, the Bryan County Courthouse is very limited in space. For this reason, designations of alternate judicial annexes have been made throughout our Circuit, including Bryan County. Other factors affect the ability to hold trials within this County. For instance, one of the Judges of the Atlantic Judicial Circuit scheduled a jury trial to take place in another county within this Circuit during the summer months due to the need to use Board of Education properties for the purposes of a trial. After the jury trial was scheduled, and jury summons were sent-out, a motion was filed by the State requesting that the matter be continued as the State was unable to procure the attendance of a forensic analyst, without whom the State would be unable to prove a critical fact. The Court finds that similar such continuance may be necessary in the future, not only in McIntosh County, Georgia, but in other courts within the Atlantic Judicial Circuit. This is likely due to the number of courts within our state, not only superior but state courts as well, that are striving to hold as many jury trials as possible, which may result in the State forensic services being stretched beyond their ability to respond, considering the number of pending cases and the number of cases that continue to be filed.

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 Bryan County are as follows: If, as required by law, the presiding judge receives notice of a filed speedy trial demand, the Court will endeavor to bring the case for a bond hearing at the earliest possible opportunity. Should

bond be denied, the Court will place the case on the earliest upcoming trial calendar for final disposition.

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 Bryan County, if any are as follows: The Atlantic Judicial Circuit contains within it four state prisons: Georgia State Prison, Rogers State Prison, Smith State Prison and Long State Prison. The cases that derive from the four state prisons affect the amount of resources that are available to bring cases to trial. For instance, while housed within facilities located within the Atlantic Circuit, detainees file habeas corpus petitions, which must be heard within the Atlantic Circuit. A hearing date is scheduled at least once a month dedicated solely to habeas corpus actions. This, along with numerous hours spent culling over voluminous trial records, limit the time available for the Judges within the Circuit to bring cases to trial. Additionally, many new crimes arise as a result of the facilities being within the Atlantic Judicial Circuit. These new crimes range from inmate-to-inmate crimes to crimes involving non-inmates bringing prohibited items into the facilities. Processing these cases requires Circuit resources and is likely to add cases in which speedy trial demands are made. The Circuit would benefit from the designation of a Senior Judge of the Superior Court of this State to handle these, non-habeas matters. The Circuit is in the process of determining whether such a Senior Judge may be appointed, however, at this juncture it is not known if this will be possible. These “prison cases” also add additional issues that must be addressed. For instance, when detainees commit a crime violence within Georgia Department of Corrections institutions, they are often

transferred to other institutions outside the Atlantic Circuit. On occasion, these detainees are released prior to disposition.

10.

Pursuant to O.C.G.A. § 38-3-62(b)(2)(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 Bryan 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 a case in which the statutory speedy trial demand has been filed. Such cases shall be further prioritized for trial based upon the length of the 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 Bryan County during the time this Order remains in effect: In any case where a valid statutory speedy trial demand is filed, the Clerk of Court will place the matter on the presiding judge's next upcoming Rule 20 calendar and subsequent trial calendar. Bond hearings will be scheduled upon request of counsel.

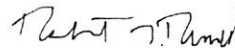
11.

Pursuant to O.C.G.A. § 38-3-62(b)(4)(B), in the Superior Court of Bryan County, Chief Judge Robert L. Russell has been scheduled for approximately one (1) trial week during the period of this Order; Judge Charles P. Rose, Jr., has been scheduled for one (1) trial week during the period of this Order; Judge D. Jay Stewart, has been scheduled for one (1) trial week during the period of this Order; and Judge Glen A. Cheney, has been scheduled for approximately one (1) trial week during the period of this Order.

12.

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 the Atlantic Judicial Circuit, this 29<sup>th</sup> day of October, 2021.



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**HON. ROBERT L. RUSSELL, III**  
Chief Judge, Superior Courts  
Atlantic Judicial Circuit