

FILED IN OFFICE

October 25, 2021



SUPREME COURT OF GEORGIA

IN THE STATE COURT OF CHEROKEE COUNTY
BLUE RIDGE JUDICIAL CIRCUIT
STATE OF GEORGIA

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

The time requirements for the filing of a statutory speedy trial demand imposed by O.C.G.A. §§ 17-7-170 and 17-7-171 were reinstated in the Superior and State Courts of Cherokee County of the Blue Ridge Judicial Circuit on July 1, 2021, by Order of the Superior Court Chief Judge.¹ The time constraints for bringing a case to trial under said statutes remained tolled from July 1, 2021, under a series of local judicial emergency orders entered pursuant to O.C.G.A. § 38-3-60 et. seq. No local judicial emergency order may be extended at this time, and the Blue Ridge Judicial Circuit's current local judicial emergency order, as entered by the Chief Judge of the Superior Court of Cherokee County, terminates on December 31, 2021.²

Pursuant to O.C.G.A § 38-3-62(b), and based upon the certification attached hereto as "Exhibit A – Certification", and to coincide with the Cherokee County Superior Court's Order Granting Relief From Statutory Speedy Trial Requirements Pursuant to O.C.G.A. § 38-3-62(b)³, the time constraints to bring cases to trial imposed by O.C.G.A § 17-7-170 will remain tolled in the State Court of Cherokee County, effective January 3, 2022, for the duration of this Order.

According 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 Emergency*, interrupted terms of court do not count in the calculation of deadlines and time limits for statutory speedy trial demand purposes. Accordingly, the May 2021 term of the court was interrupted by the statewide judicial emergency⁴, and the September 2021 term was

¹ Order Declaring Local Judicial Emergency, filed July 1, 2021, at Superior Court Minute Book 201, Page 2757.

² Order Declaring Local Judicial Emergency, filed July 1, 2021, at Superior Court Minute Book 201, Page 2757; Order Extending Local Judicial Emergency, filed July 30, 2021, at Superior Court Minute Book 201, Page 2788; Order Amending Order Extending Local Judicial Emergency, filed August 5, 2021, at Superior Court Minute Book 201, Page 2797; Order Extending Local Judicial Emergency, filed August 16, 2021, at Superior Court Minute Book 201, Page 2820; and Temporary Safety Measures for All Classes of Courts, filed October 1, 2021, at Superior Court Minute Book 201, Page 2856.

³ Order Granting Relief From Statutory Speedy Trial Requirements Pursuant to O.C.G.A. § 38-3-62(b), filed October 1, 2021, at Superior Court Minute Book 201, Page 2864.

⁴ Fifteenth Order Extending Declaration of Statewide Judicial Emergency, filed in the Supreme Court of Georgia, June 7, 2021.

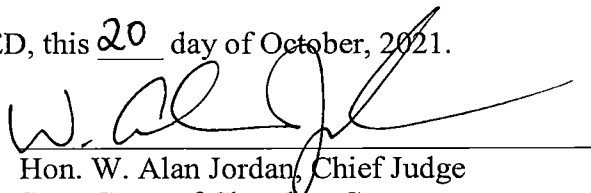
interrupted by the Blue Ridge Judicial Circuit's local judicial emergency order, as entered by the Chief Judge of the Superior Court of Cherokee County.⁵

Therefore, this Order shall become effective at the beginning of the next term of court, which begins January 3, 2022. It shall terminate on September 3, 2022, a date that is not more than eight months from its effective date, and the last day of a term of the State Court of Cherokee County of the Blue Ridge Judicial Circuit, 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). The Court is aware that the time from the entry of this Order to its effective date is more than two (2) months. The Court will review all requirements of certification set forth by statute in December, 2021, in consideration as to whether this Order should be modified or suspended.

Nothing herein shall relieve the State of its constitutional obligation to provide for a speedy and public criminal trial.

This Order shall be filed with the Clerk of State Court of Cherokee County in the State Court Minute Book. Pursuant to O.C.G.A. § 38-3-63, said Order shall be posted at all entryways to the Frank C. Mills, III, Justice Center, on the website of the Clerk of Courts and the Court Administrator, and at the elevator entrances on all floors of the Justice Center. This Order shall immediately be served upon Chief Justice David E. Nahmias of the Supreme Court of Georgia, such service to be accomplished via email to Tee Barnes, the Clerk of the Supreme Court of Georgia, at barnest@gasupreme.us. This Order shall immediately be served upon the individuals and offices below by email, such service to be accomplished to assure expeditious receipt. This Order shall be distributed by email to the Cherokee Bar Association and the Indigent Defense Office.

SO ORDERED, this 20 day of October, 2021.



Hon. W. Alan Jordan, Chief Judge
State Court of Cherokee County
Blue Ridge Judicial Circuit

⁵ Order Extending Local Judicial Emergency, filed August, 30, 2021, at Superior Court Minute Book 201, Page 2833.

Copies to:

Chief Justice David E. Nahmias, Supreme Court of Georgia
Tee Barnes, Clerk of the Supreme Court of Georgia
Clerk, Georgia Court of Appeals
Sheriff Frank Reynolds
Judges of Cherokee Superior Court
Judges of Cherokee State Court
Judges of Cherokee Juvenile Court
Judge James Drane, Magistrate
Judge Keith Wood, Probate Court
Patty Baker, Clerk of Courts
Shannon Wallace, District Attorney
Todd Hayes, Solicitor-General
Lynn Epps, Court Administrator
Cherokee County Bar Association
Louis Turchiarelli, Indigent Defense Director
Cherokee County Board of Commissioners

Exhibit A – Certification

Pursuant to O.C.G.A § 38-3-62(b)(2) and b(3), the Chief Judge of the State Court of Cherokee County certifies as follows:

Under the totality of the circumstances arising from and following the statewide judicial emergency declared on March 13, 2020 and ending on June 30, 2021, and the local judicial emergency declared July 1, 2021, and extended by Orders dated August 1, 2021, September 1, 2021, and October 1, 2021, and terminating on December 31, 2021, compliance with the statutory speedy trial requirements established under OCGA § 17-7-170 is impracticable in the State Court of Cherokee County of the Blue Ridge Judicial Circuit due to the following factors:

1. A pending criminal case volume that is substantially above the average pending criminal case volume at the end of each of the three full calendar years preceding the judicial emergency;

2. An annualized criminal case clearance rate in the current calendar year that is substantially below the average criminal case clearance rate for each of the three full calendar years preceding the judicial emergency;

3. The number of speedy trial demands pending within one month of the date of this certification totals zero;

4. The number of jury trials held in the State Court of Cherokee County during the last full term of court (May term) was 11. No trials have been held in the current term of court (September term) due to suspension of jury trials based on a local judicial emergency order arising from a spike of COVID cases in the community;

5. The following ongoing space limitations or other health or safety concerns exist preventing the use of facilities available to conduct criminal trials:

a) There are three (3) active State Court judges and three (3) State Court courtrooms in the Justice Center. One of the State Court courtrooms is smaller in size and does not have a jury box. There is one jury assembly room in the Justice Center, used by both Superior and State Court,

b) A State Court courtroom (courtroom 1-B) was specially reconfigured to allow adequate spacing for all participants, as set forth in CDC guidelines for social distancing. This was the only courtroom used for both State and Superior Court trials when the statewide judicial emergency order was modified to allow jury trials in March, 2021. Only one trial could take place at a given time, due to limited space in the jury assembly room, and because additional courtrooms were used for jury deliberations and public access to view the trial via livestream,

c) In August, 2021, State Court trials took place in State Court courtrooms with jurors socially distanced in the audience seating area of the courtrooms. Only two trials could be held

simultaneously, due to limited space in the jury assembly room, and the use of the other courtrooms as jury deliberation rooms and for public viewing on livestream, and

d) None of the courtrooms in the Justice Center are large enough to accommodate multiple co-defendant trials with adequate social distancing;

6. The Solicitor General's office and the Indigent Defense office have limited resources to provide attorneys for multiple back-to-back cases. Jurors must pass through public areas of the building as they move between the trial courtroom and the deliberation courtroom, requiring additional bailiffs and sheriff's personnel; and

7. There has been a plan in place to reduce the number of criminal defendants held in custody awaiting trial; jury trials resumed in March, 2021, subject to the restrictions referenced elsewhere in this certification. Six weeks of jury trials have been held since then, and 13 trials have taken place in the State Court of Cherokee County. A trial week in August was suspended due to the Delta variant spike in cases, and no trials took place in September for the same reason.

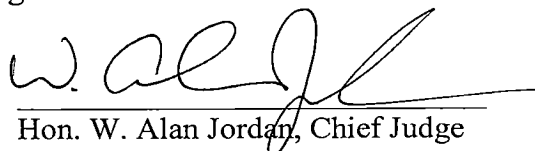
A plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible is hereby established. It is hereby ordered that any case in which a valid statutory speed trial demand has been filed shall be prioritized for trial. The highest priority shall be given to any such case in which 1) the defendant has been held in custody while awaiting trial; 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; and 3) the most serious crime with which the defendant is charged. Such cases shall further be prioritized for trial based upon length of time the defendant has remained in custody prior to trial.

Number of trial weeks scheduled during the pendency of this Order:

- a) Judge Jordan, 9;
- b) Judge Morris, 9; and
- c) Judge Helhoski, 9.

The above schedule is based on only two State Court trials taking place simultaneously. Should CDC guidance regarding social distancing allow for the use of regular jury deliberation rooms and the use of the jury assembly room to capacity, additional trials will be scheduled by each judge, and the assistance of senior judges will be requested.

SO CERTIFIED, this 20 day of October, 2021, by the Chief Judge of the State Court of Cherokee County, Blue Ridge Judicial Circuit.


Hon. W. Alan Jordan, Chief Judge
State Court of Cherokee County
Blue Ridge Judicial Circuit