

**FILED IN OFFICE**

July 1, 2021

*Theresa A. Bame*

SUPREME COURT OF GEORGIA

**FILED IN OFFICE**

Clerk of Superior Court-Bartow Co. Ga

07/01/2021 08:01 AM

BARTOW

**THE SUPERIOR COURT OF BARTOW 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 and tolled in the Superior Court of Bartow 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 1<sup>st</sup> day of July, 2021, and it shall terminate on the 31st day of October, 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 Bartow 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 Bartow 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 Bartow 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 Bartow County Bar Association.
- 4) It shall be posted at the entrance to the Bartow County Courthouse.

SO ORDERED this 1<sup>st</sup> day of July, 2021.

  
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D. Scott Smith, Chief Judge  
Superior Court  
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 14<sup>TH</sup> day March, 2020 and ending on the 30<sup>th</sup> 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 Bartow 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 Bartow 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 Bartow County currently totals: 1506 on the trial calendar with an additional 767 cases waiting to be arraigned; the total pending criminal case volume that existed for the year (2019) totaled: 2701; the total pending criminal case volume that existed for the year (2018) totaled: 2908; and the total pending criminal case volume that existed for the year (2017) totaled 2516. It is important to note that at the time of this order we are halfway through the calendar year.

**(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 Bartow County totals: 1.

**(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 Bartow County was 4.

**(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 Bartow County that limit the

use of facilities available to conduct criminal trials and related activities. Spacing requirements due to the pandemic have limited the amount of cases on the calendar as well as the number of trials that can be heard.

(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 Bartow County are as follows: The prosecutors have continued to promote the resolution of cases involving in custody defendants through the plea process. The trial calendar has consisted of in-custody defendants since March 2021.

(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 Bartow County, if any, are as follows: The number of defendants pending trial by jury by far outnumbers the availability of possible trials. Simply put, the court calendar does not provide enough time to reach the cases that are currently pending.

(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 Bartow 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 Bartow 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 Bartow 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 1<sup>st</sup> day of July, 2021.

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