

July 16, 2021

IN THE SUPERIOR COURT OF DOUGHERTY COUNTY
STATE OF GEORGIA
SUPREME COURT 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, modified in the Superior Court of Dougherty County within the Dougherty 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 day 16th of July, 2021, and it shall terminate on the 14th 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 Dougherty 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 Dougherty 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: the undersigned hereby

ORDERS that the Sheriff of Dougherty County post this Order on the Sheriff's notification site and in the Dougherty County Judicial Building (Courthouse);

FURTHER ORDERS that a copy of this Order be immediately 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;

FURTHER ORDERS that a copy of this Order be immediately served upon the Judges of the Court of Appeals of Georgia, such service to be accomplished via email to Steve E. Castlen, the Clerk of the Court of Appeals of Georgia at castlens@gaappeals.us;

FURTHER ORDERS that a copy of this Order be served upon each of the Judges of the Municipal Court of Albany, and the Probate, Juvenile, Magistrate, State and Superior Courts of Dougherty County, and the Clerk of Superior and State Courts, by reasonable means to assure expeditious receipt;

FURTHER ORDERS that notice of the issuance of this Order be given to affected parties, counsel for affected parties, and the public by means calculated to reach such, including by posting at the courthouse, in the newspaper, email, facsimile, or announcements on radio or television.

SO ORDERED this 16th day of July, 2021.



Willie E. Lockette, Chief Judge
Dougherty Judicial Circuit

EXHIBIT A- CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62 (b) (3), (the Chief Judge/a majority of the active Superior Court Judges) of the Dougherty Judicial Circuit (certifies/certify) 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 Supreme Court Chief Justice Harold Melton pursuant to O.C.G.A. § 38-3-61 on the 14th day of March, 2021 and ending on the 30th day of June, 2012, 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 Dougherty County within the Dougherty 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 Dougherty 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 Dougherty County currently totals: 13,626 as of 7/8/21 and is likely to increase; the pending criminal case volume that existed in (2019) totaled: 9,845; the pending criminal case volume that existed in (2018) totaled: 6,452; and the pending criminal case volume that existed in (2017) totaled 4,659.

(3)

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 Dougherty 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 case clearance rate in the Superior Court of Dougherty County in the current calendar year is: 6.6 percent; the annualized criminal case clearance rate that existed in (2019) was: 36.6 percent; the annualized criminal case

clearance rate that existed in (2018) was: 63.7 percent; and the annualized criminal case clearance rate that existed in (2017) was: 81.7 percent.

(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 Dougherty County totals: five (5).

(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 Dougherty County was two (2).

(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 Dougherty County that limit the use of facilities available to conduct criminal trials and related activities: The Superior Court has only three courtrooms in which to hold jury trials. Two of them are small, and can only be used when a case involves less than four defendants. We have one larger courtroom that can accommodate jury trials with up to perhaps six defendants. This Judicial Circuit has a number of cases with multiple defendants, one with fourteen. If all those defendants are tried together, we have no courtroom that will accommodate that trial, and will be forced to seek an alternate facility, such as the Albany Civic Center banquet rooms, or like facilities at the local university or public schools, etc. to conduct such trials.

In the early months of the Covid-19 pandemic, the Dougherty Judicial Circuit was one of Georgia's hot spots, with a disproportionately high number of cases and deaths. In light of the possible Delta-variant surge, and out of an abundance of caution, this Circuit will continue for the foreseeable future complying with all the Covid-19 protocols currently in effect, including screening, temperature checks, social distancing, mask wearing, etc. These protocols, which allow only one judge at a time to conduct jury trials (because a courtroom must serve as a jury room) make the space limitations problem more challenging, and limits the number of trials that can be conducted.

The State Court has only one courtroom for jury trials, which will likely not be available for use by Superior Court as State Court seeks to reduce its own large backlog of cases.

(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, expert witnesses, forensic analysis, law enforcement officers, or other relevant persons in the Superior Court of Dougherty County, as follows: The Superior Court has only three full-time judges. The Court has been informed by the District Court Administrator that there are only enough funds for each Circuit in the District to pay a senior judge for assistance for five days for each active judge, or a total of fifteen days (or three weeks) for this Circuit for the entire year. Obviously, this means that the assistance from senior judges funded by the District will be minimal. However, this Circuit has local funds from Dougherty County for judicial assistance which is sufficient to fund judicial assistance for an additional six weeks. As far as I know, the staffing for the prosecutors, public defenders, law enforcement and others has not changed in response to the pandemic. It is anticipated that more courtroom personnel and court reporters will be needed when senior judges provide judicial assistance by conducting jury trials.

(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 Dougherty County are as follows: At the present time, 80% (462) of the total jail population of 578 consists of pretrial detainees. Our judges are holding status calendar calls in all felony cases, beginning with the oldest cases with persons in custody, and requesting prosecutors to provide written plea offers two weeks prior to the calendar calls. Prosecutors are asked to consider and make greater use in plea offers of first offender, conditional discharge, and pretrial intervention with record restriction as incentives for all defendants who qualify. This will give the parties an opportunity to determine if the cases can be resolved without a trial, and whether a bench trial is an acceptable alternative to a jury trial.

Defense counsel are also encouraged to advise their clients that cases can be tried without a jury much sooner than jury trials, if defendants consent to trial by the judge alone.

If cases cannot be resolved without a trial, the judge can review the matter of bond to see if a bond should be set, reduced or otherwise modified to give pretrial detainees a chance to be released pending trial. The judges will also consider increasing the use of electronic house arrest and our Pretrial Release Program in all appropriate cases. Prosecutors are also encouraged to reach consent bonds in all appropriate cases to reduce the number of bond hearings the judges must hold.

(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 Dougherty County, if any, are as follows: To the pending case numbers reported above must be added almost 5,500 criminal cases that are still in warrant status, and have not been accused or indicted. With the re-start of grand juries, these pending warrants will probably result in a surge of additional criminal cases in the months ahead.

In addition, the Dougherty Circuit has seven death penalty cases pending at this time, and others under consideration. This Circuit also has a significantly high number of serious offenses involving gun violence, many of which are multiple defendant cases that need to be resolved.

(10)

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 Dougherty 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 Dougherty County during the time this Order remains in effect: Priority consideration for trial will also be given to "serious offenses" under O.C.G.A. § 17-10-6.1, i.e. murder, felony murder, armed robbery, kidnaping, aggravated child molestation, aggravated sodomy, aggravated sexual battery and Racketeer Influenced and Corrupt Organizations cases. Prioritizing those cases should also help the jail population to reduce, as persons with these offenses are the ones most likely to remain the longest in pretrial detention.

(11)

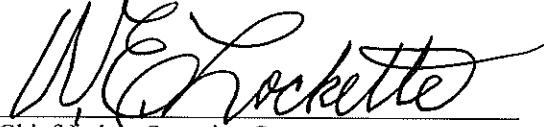
Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the Superior Court of Dougherty County, Judge Willie E. Lockette has been scheduled for nine (9) trial weeks during the period of this Order; Judge Denise Marshall has been scheduled for nine (9) trial weeks during the period of this Order; Judge Victoria Darrisaw has been scheduled for nine (9) 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); or
- at the request of a majority of the active judges of this Court who are serving in this Judicial Circuit as evidenced by their written request, which is attached as Exhibit B to this Order, pursuant to O.C.G.A. § 38-3-62 (b) (3) (B) (i).

(Chief Judge signature – use if O.C.G.A. § 38-3-62 (b) (3) (A) is checked above)

So certified by the Chief Judge of this Judicial Circuit, this 16th day of July, 2021.



Chief Judge, Superior Court
Dougherty Judicial Circuit