

FILED IN OFFICE

June 22, 2021

Theresa A. Bame

SUPREME COURT OF GEORGIA

GEORGIA BROOKS COUNTY

Filed in office on

IN THE SUPERIOR COURT OF BROOKS COUNTY
STATE OF GEORGIA

JUN 21 2021

Beth A. Wheeler
Clerk of Superior Court/State Court
Juvenile Court

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**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 in the Superior Court of Brooks County within the Southern 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 becomes effective July 1, 2021, and it shall terminate on the 3rd 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 Brooks 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 Brooks 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

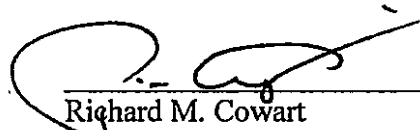
ORDER SUSPENDING DEADLINES UNDER O.C.G.A. § 38-3-62 (b)

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:

This Order shall be furnished to the Office of the District Attorney for the Southern Judicial Circuit, the Office of the Public Defender for the Southern Judicial Circuit, and the applicable bar associations.

It is FURTHER ORDERED that this Order shall take effect at 12:01 a.m. on July 1, 2021.

SO ORDERED, this 21st day of June, 2021.



Richard M. Cowart
Chief Judge, Superior Court
Southern Judicial Circuit

EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62(b)(3), the Chief Judge of the Southern 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 Supreme Court of Georgia and the local judicial emergency declared by the undersigned Chief Judge pursuant to O.C.G.A. § 38-3-61, becoming effective on the 1st day of July, 2021, and ending on the 3rd day of October, 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 Brooks County within the Southern 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 Brooks 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 Brooks County currently totals: 642. The pending criminal case volume that existed in (2019) totaled: 639; the pending criminal case volume that existed in (2018) totaled: 626; and the pending criminal case volume that existed in (2017) totaled: 700, but in each of those years, the Court was conducting a regular schedule of jury trials.

(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 Brooks 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 Brooks County in the current calendar year is: 29 percent; the annualized criminal case clearance rate that existed in (2019) was: 48 percent; the annualized criminal case clearance rate that existed in (2018) was: 48 percent; and the annualized criminal case clearance rate that existed in (2017) was: 57 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 Brooks County totals: 0. However, the Court is concerned with the potential of being overwhelmed by new speedy trial demands when the current judicial emergency order expires.

(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 Brooks County was 1.

(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 Brooks County that limit the use of facilities available to conduct criminal trials and related activities: Space is currently limited as prospective jurors must be spread out amongst all courtrooms for jury selection to allow for social distancing. New COVID-19 cases are still reported daily in this region of the state.

(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 Brooks County, as follows: Due to the volume of criminal, civil, and domestic cases pending within this five-county circuit, all five presiding Superior Court Judges have full court schedules that allow for limited criminal trial weeks. This affects all necessary attorneys and personnel.

(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 Brooks County are as follows: The Court holds multiple criminal hearing days every month for bonds, probation revocations, guilty pleas, and pre-trial motions.

(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 Brooks County, if any, are as follows: In addition to the factors listed above, other factors include the high volume of pending

criminal cases within the Southern Judicial Circuit and limited courtroom capabilities for conducting virtual hearings and/or virtual witnesses.

(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 Brooks 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 Brooks County during the time this Order remains in effect: Priority will be based upon serious nature of pending charges.

(11)

The Southern Judicial Circuit calendar has not yet been published for the applicable time period; however, pursuant to O.C.G.A. § 38-3-62(b)(4)(B), in the Superior Court of Brooks County, Judge Cowart will be scheduled for approximately 1 trial week during the period of this Order; Judge Hardy will be scheduled for approximately 0 trial weeks during the period of this Order; Judge McDaniel will be scheduled for approximately 0 trial weeks during the period of this Order; Judge Prine will be scheduled for approximately 0 trial weeks during the period of this Order; and Judge Voyles will be scheduled for approximately 1 trial week 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 21st day of June, 2021.


Richard M. Cowart
Chief Judge, Superior Court
Southern Judicial Circuit