

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

DECLARATION OF LOCAL
JUDICIAL EMERGENCY

February 17, 2021

ORDER EXTENDING LOCAL JUDICIAL EMERGENCY

On March 14, 2020, Chief Justice Harold Melton of the Supreme Court of Georgia entered an order declaring a state-wide judicial emergency. Thereafter, the Chief Justice has entered a series of orders extending the state-wide judicial emergency, with certain modifications and guidance. The most recent of these orders is dated February 7, 2021, and the Courts of the Blue Ridge Judicial Circuit are bound by it, except to the extent that the Chief Judge of the circuit may properly add additional restrictions.¹

Since the Chief Justice's original order, this Court has entered multiple orders to confirm and implement the provisions of that order and its extensions.² Those orders are incorporated herein by reference, except as may be in conflict with the Chief Justice's Order of January 8, 2021, or as superseded or modified herein. The last local emergency order was entered January 15, 2021.

¹ OCGA §§ 38-3-61 and 38-3-62.

² Said orders are as follows: Order to Address Essential Functions, filed March 18, 2020 at Superior Court Minute Book 201, Page 2229; Order on Public Access, filed March 26, 2020 at Superior Court Minute Book 201, Page 2231; First Amendment to Order to Address Essential Functions, filed March 27, 2020 at Superior Court Minute Book 201, Page 2233; Order Declaring Extension of Judicial Emergency, filed April 7, 2020 at Superior Court Minute Book 201, Page 2240; Order Declaring Second Extension of Judicial Emergency, filed May 12, 2020 at Superior Court Minute Book 201, Page 2256; Order Declaring Local Judicial Emergency, filed July 13, 2020 at Superior Court Minute Book 201, Page 2301; Order Extending Local Judicial Emergency, filed August 12, 2020, Superior Court Minute Book 201, Page 2331; Order Declaring Local Judicial Emergency, filed December 18, 2020, Superior Court Minute Book 201, Page 2382.; and Order Extending Local Judicial Emergency, filed January 15, 2021, Superior Court Minute Book 201, Page 2577.

As of the date of this Order, the active number of coronavirus/CoVid-19 cases in Cherokee County, while still high, are trending in the right direction.³ As the Chief Justice's most recent order reflects, it is not yet appropriate to return to normal operations, but there is reason for cautious optimism that operations may soon be expanded to include jury trials.

In order to protect the health and safety of all court personnel, attorneys, litigants, and the general public, and to continue the orderly operation of the courts, and pursuant to O.C.G.A. § 38-3-60(2)(D) and O.C.G.A. § 38-3-61, the previously ordered judicial emergency is extended by this Order, and shall affect all courts and clerk's offices in the Blue Ridge Judicial Circuit.

Accordingly, IT IS THE ORDER of the Court, as follows:

1. Health and Safety Measures: Where this order refers to "public health guidance," it references the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), and the Georgia Department of Public Health (DPH).⁴

While the courts have been abiding by various health and safety measure throughout the pandemic, this Order shall serve to clarify and reemphasize these provisions.

A. Screening and Public Access: Everyone entering the courthouse will be screened for symptoms and COVID- 19 exposure. The Sheriff's Office shall ask all persons entering the Justice Center the following questions: 1) Have you been diagnosed with, or had contact with someone who has been diagnosed with, COVID-19 within the last 14 days?; and 2) Have you

³ As of January 12, 2021, immediately prior to the Court's most recent order, the number of new confirmed coronavirus cases in Cherokee County was 185, and the 7 day average was 207.6. As of February 15, 2021, those numbers are 98 and 62.4, respectively. Cherokee County's test positivity rate for the two weeks prior to January 11, 2021, was 21.4%. The county's test positivity rate from January 28, 2021 to February 10, 2021, is 11.5%. The DPH County Indicator Report still designates Cherokee County as a "county with high transmission indicators". See Georgia Department of Public Health, Daily Covid-19 Status Report, <https://dph.georgia.gov/covid-19-daily-status-report>.

⁴ The measures herein are all recommended best practices for stopping the spread of COVID-19, per CDC and DPH.

developed a new cough, difficulty breathing, or fever over 100 degrees over the last 3 days?

Anyone answering yes to either of these questions will not be allowed to enter the Justice Center.

Also, as a part of the screening process, deputies will take the temperature of every person entering the Justice Center. Any person with a fever of 100 degrees or higher will not be permitted to enter the Justice Center.

Any person denied entry into the Justice Center shall be instructed by deputies to call the Justice Center main telephone number (678-493-6100) from outside the courthouse. If said person is seeking to file a pleading or other document, the Clerk of Court shall determine whether such filing can be accomplished through the electronic filing system. If the individual does not have access to the e-filing system, then the Clerk shall accept paper filing. The person filing the pleading shall remain outside the Justice Center while the pleading is being filed; delivery of the paper filing shall be made by a deputy sheriff to the Clerk.

If the person denied entry into the Justice Center is there to attend a hearing as either a litigant, witness, or public spectator, such person shall remain outside the Justice Center while the appropriate judicial chambers is notified by the security staff. The assigned judge is authorized to consider all relevant facts and circumstances and make a determination as to whether to admit such person.

The Clerk of Court shall remain open to the public for filing of pleadings by self-represented litigants and in criminal cases. All self-represented litigants, including individuals seeking to file a Petition for Temporary Protective Order under the Family Violence Act, should contact the Clerk of Court at clerk.cherokee.ga.com or call 678-493-6511 to schedule an appointment for assistance. While attorneys and self-represented litigants are encouraged to use the temporary criminal e-filing system, the Clerk shall accept and file paper pleadings in all criminal cases.

B. Masks: All persons entering the Justice Center are required to wear a mask in any public area of the building, to include lobbies, hallways, elevators, rest rooms, the Jury Assembly room, and the Law Library. This requirement includes individuals working in the building as well as members of the public. Those working in their offices may remove their masks with the consent of their supervisor.

The mask must remain in proper position over the nose and mouth. All courthouse deputies, bailiffs, and other staff will remain vigilant and politely ask anybody in the Courthouse seen without a mask to put one on. Anyone arriving without a mask will be provided one at screening.

Individuals in court may remove their face-covering only with the permission of the judge presiding.

C. Social Distancing and Room Capacities; Jury Assembly Room: All courts, offices, and departments are encouraged, to the extent possible, to allow employees to work remotely, and to conduct business and offer services by appointment, in order to mitigate the number of visitors entering the facilities at any given time.

All persons in the building shall make every effort to remain six feet apart during face-to-face interactions. The limit for elevator capacity shall be 2 people not in the same household, and this restriction posted at the elevator entries. All judges are encouraged to be aware of appropriate room capacities and social distancing for any proceeding occurring in their courtroom.

The Jury Assembly room has a maximum capacity of 24 people. In order to coordinate the use of this room among the classes of courts, and allow for appropriate cleaning and social

distancing, any court or office requesting use of it shall contact Lynn Epps, Court Administrator, for prior approval.

No office or entity will be allowed use of the Jury Assembly room without permission of the Court Administrator. It shall not be used for meetings, trainings, conferences, receptions, or any other functions other than those solely related to conducting court (for example, arraignments, grand jury, jury assembly) for the duration of this Order, and any extension thereof.

2. Essential Functions: The Frank C. Mills, III Cherokee County Justice Center **shall remain open to the public** and the Courts shall be open to address essential functions, giving priority to matters necessary to protect health, safety, and liberty of individuals. Essential functions include the following: (a) where an immediate liberty or safety concern is present requiring the attention of the court as soon as the court is available; (b) criminal court search warrants, arrest warrants, initial appearances, and bond reviews; (c) domestic abuse temporary protective orders and restraining orders; (d) juvenile court delinquency detention hearings and emergency removal matters; and (e) mental health commitment hearings.

3. Limitation and Suspension of In-Person Proceedings; Proceedings to be Conducted Remotely: The Justice Center remains open to the public for access of the essential functions of the courts. As noted in prior orders, the Courts of the Blue Ridge Judicial Circuit have worked hard to develop resources for conducting non-jury hearings remotely.

A, Suspension of In-Person Hearings: Therefore, this Order suspends and cancels any in-person hearings or proceedings in the Justice Center, except as otherwise allowed herein. Grand jurors have been summoned to report on February 22, 2021, and shall be permitted to conduct in-person proceedings in the JAR of the Justice Center, abiding by all public health guidance and procedures set forth in this Order.

B. Conduct of Remote Hearings: All classes of court shall conduct hearings remotely, by telephone or videoconference, except as otherwise provided herein. Courts may compel the participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings shall be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia constitutions or applicable statutes or court rules. In civil, criminal, juvenile, and administrative proceedings, litigants may expressly consent in the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements.

If a party or a member of the public objects to the remote proceeding, the court shall sustain or overrule such objection prior to conducting the proceeding.

ANY PERSON WITHOUT ACCESS TO AN ADEQUATE INTERNET CONNECTION OR TO A DEVICE WHICH WILL PERMIT REMOTE PARTICIPATION SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE PRIOR TO HEARING. THE COURT ADMINISTRATOR WILL MAKE SUCH AVAILABLE FOR PARTICIPATION IN THE HEARING AT THE JUSTICE CENTER. IF YOU ARE ORDERED OR SUMMONED TO APPEAR, AND YOU HAVE NOT MADE THESE ARRANGEMENTS PRIOR TO HEARING, YOU SHOULD STILL APPEAR AT THE JUSTICE CENTER WHEN REQUIRED, ALTHOUGH YOUR HEARING MAY BE DELAYED OR CONTINUED AT THE DISCRETION OF THE ASSIGNED JUDGE.

C. In-Person Hearings; Treatment Courts: Essential matters as defined herein, and matters deemed emergencies by the assigned judge, may be held in-person, only if: (a) required by law to be in person, or (b) if it is not practicable for technical or other reasons for persons

participate in the proceeding to participate remotely, AND (c) as long as any such hearing or matter is conducted in accordance with public health guidance and this Court's related orders.

Treatment courts and accountability courts may conduct in-person proceedings, if deemed necessary by the presiding judges of said courts, to address the special circumstances and needs of their participants. All such hearings shall be conducted in accordance with public health guidance and this Court's related orders.

In order to insure for proper sanitation of courtrooms and public spaces, judges are encouraged to notify the Court Administrator prior to conducting an in-person hearing.

3. Alternate Locations: Nothing herein shall prohibit any class of court from conducting hearings or other business at an external or alternate location, with the agreement of the Cherokee County Board of Commissioners, in order to allow larger calendars while still abiding by social distancing and other public health guidance.

4. Livestream Broadcasts: Livestream links are available on the Court Administration website (<https://www.cherokeega.com/Court-Administrators-Office/>) for all proceedings not deemed to be confidential by law or otherwise held in open court.

5. Probate Court: The Probate Court shall conduct all business, with the exception of essential matters and emergencies, by appointment only. These appointments shall be scheduled and conducted in a way to ensure that applicants are required to maintain social distancing guidelines (for example, to limit the number of people in waiting area, hallways, and elevators). The Probate Court shall continue to provide essential services as set forth on the Probate Court website (<https://www.cherokeega.com/Probate-Court/>). The Probate Court shall coordinate with the Sheriff's courthouse security personnel to ensure that walk-in applicants are advised of the way they may schedule an appointment for the services sought.

6. No Tolling of Deadlines on Litigants: The reimposition of deadlines on litigants found in Section II of the Chief Justice's Ninth Order Extending Declaration of Judicial Emergency, dated December 9, 2020, is incorporated herein by reference.

7. Restriction of Jury Trials: The Chief Justice's current statewide emergency order prohibits jury trials through March 9, 2021, but permits the summoning of jurors for anticipated resumption of jury trials thereafter. The committee established for development of a plan to resume jury trials has finalized its work; the plan will be submitted to the Administrative Office of the Courts and will be posted to the Court Administrator and the Superior Court websites. Superior and State Courts will in the near future be publishing calendars of scheduled jury trial weeks to begin March 22, if permitted by any extension order entered by the Chief Justice upon expiration of the current emergency order.

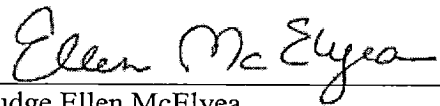
This Order shall become effective on February 17, 2021. In order to coincide with the statewide emergency orders, this Order shall terminate on March 9, 2021, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.

This document shall be posted at all entryways to the Justice Center, on the website of the Clerk of Court and the Court Administrator, and at the elevator entrances on all floors of the Justice Center.

Pursuant to O.C.G.A. § 38-3-63, it is Ordered that the Sheriff of Cherokee County shall post this Order on his public notification site and in the Frank C. Mills, III Justice Center; that this Order shall immediately be served upon Chief Justice Harold D. Melton 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; that this Order shall immediately be served upon the judges and clerks of all courts of the Blue Ridge Judicial Circuit and on the clerks of the Georgia Court

of Appeals and the Georgia Supreme Court, such service to be accomplished through reasonable means to assure expeditious receipt; and this Order shall be published on the Court Administrator's website for notice to the affected parties, counsel for the affected parties, and the public.

SO ORDERED, this 17th day of February, 2021.



Chief Judge Ellen McElyea
Superior Court of Cherokee County
Blue Ridge Judicial Circuit

CC:

Chief Justice Harold Melton, 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

