

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

DECLARATION OF LOCAL
STATE OF JUDICIAL EMERGENCY

July 13, 2020

ORDER DECLARING 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 July 12, 2020, and the Courts of the Blue Ridge Judicial Circuit are bound by it, except to the extent that the Chief Judge 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 July 12, 2020, or as modified herein.

¹ According to Section V of said Order, "[n]othing in the Order Declaring Statewide Judicial Emergency as extended and modified limits the authority of the Chief Judge of a superior court judicial circuit under OCGA §§ 38-3-61 and 383-62 to add to the restrictions imposed by the statewide judicial emergency, if such additional restrictions are constitutional, necessitated by local conditions, and to the extent possible ensure that courthouses or properly designated alternative facilities remain accessible to carry out essential judicial functions. A Chief Judge may impose such additional restrictions only by a properly entered order."

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; and Order Declaring Second Extension of Judicial Emergency, filed May 12, 2020 at Superior Court Minute Book 201, Page 2256.

This Court's last order declaring a local judicial emergency expired as a matter of law on June 11, 2020.³ Since that date, the active number of coronavirus/CoVid-19 cases in Cherokee County, the surrounding counties, and the entire State has continued to rise.⁴

In numerous nearby counties, court personnel have become exposed to and infected by the virus, causing the closing of courthouses, use of emergency locations, and restriction of services, sometimes for as long two weeks.⁵

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, a judicial emergency is declared 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), the Georgia Department of Public Health (DPH), and the Cherokee County Health Department.⁶

³ The text of the Court's last order was in error. Pursuant to O.C.G.A. 38-3-60, an emergency order can last no more than 30 days.

⁴ On June 12, 2020, the day after the expiration of the last local emergency order, the number of new confirmed coronavirus cases in Cherokee County was 13, and the 7 day average of new confirmed cases was 10.7. On June 27, 2020, the number of new confirmed cases was 31, and the 7 day average was 32.4. See Georgia Department of Public Health, Daily Covid-19 Status Report, <https://dph.georgia.gov/covid-19-daily-status-report>. On June 12, the number of new reported coronavirus cases in Georgia was 810, and the 7 day average of new reported cases was 737. Only July 10, the number of new reported cases statewide was 3190, and the 7 day average was 3012. Hospitalizations related to the virus statewide were 836 on June 12, with the seven day average being 817; on July 11, the numbers were 2446 and 2184, respectively. See, Atlanta Journal Constitution, <https://www.ajc.com/news/coronavirus-georgia-covid-dashboard/jvoLBozRtBSVSNQDDAuZxH/>

⁵ Nearby counties where court personnel have tested positive and/or had closings related thereto include Cobb, Fannin, Floyd, Fulton, Gilmer, and Hall.

⁶ This Memorandum incorporates many of the conditions found in this Court's Amended Order on Public Access, filed of record on May 12, 2020 at Superior Court Minute Book 201, Page 2254, which Order remains in effect.

All individuals entering the Justice Center shall abide by the health and safety measures as set forth in the Memorandum of the Chief Judge, filed as Appendix A of this Order. 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. This Memorandum shall be reviewed periodically, and modified to adapt to any changes to public health guidance.

2. Suspension of Reopening Plan: The reopening plan for the Blue Ridge Judicial Circuit, as incorporated by this Court's Order of June 19, 2020, is hereby suspended, including the conducting of in-person hearings contemplated in it. Any attorney or litigant with a scheduled in-person hearing affected by this suspension should contact the assigned judge's office for direction.

3. Master Calendars: Based upon consultation with judges from each class of court, this Order suspends the published master calendars of the Superior, State, Magistrate and Juvenile Courts of the Blue Ridge Judicial Circuit. Each judge shall publish his or her calendar for the benefit of attorneys, litigants, and court personnel.

4. 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.

5. Proceedings to be Conducted Remotely: The judges, clerk and court administrator and sheriff of this circuit have worked diligently throughout the judicial emergency to provide access to the courts. There exists technology for electronic review of documents in both civil and criminal cases, and conduct of inmate hearings as well as other appropriate matters by videoconference. Livestream broadcast of those matters is available to provide public access to court proceedings and to ensure a defendant's right to an open courtroom.

Therefore, 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.

6. Limited Use of In-Person Hearings: Essential matters as defined herein, and matters deemed emergencies by the assigned judge, may be held in-person, 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. In the event that a particular attorney, litigant, witness or other participant may not be able to appear remotely in a

hearing on an essential or emergency matter, the assigned judge is encouraged to conduct “hybrid” hearings, allowing as much remote participation as possible, as long as such is in compliance with applicable laws and constitutional requirements.

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.

7. 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.

8. 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.

9. 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.

10. Mitigation for Social Distancing: 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.

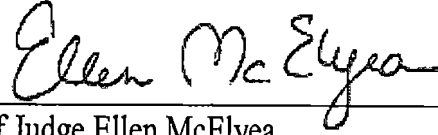
11. Jury Trials, Grand Jury Proceedings, and Reimposition of Deadlines: Please see the prohibition on jury trials and most grand jury proceedings found in Section I of the Chief Justice's Order of July 10, 2020, as well as the reimposition of deadlines on litigants found in Section II of said Order.

This Judicial Emergency shall terminate on August 12, 2020, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.

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.

(Signature on following page)

SO ORDERED, this 13th day of July, 2020



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

APPENDIX A
MEMORANDUM ON HEALTH AND SAFETY

TO: All courts, attorneys, litigants, and members of the public
FROM: Chief Judge Ellen McElyea, Superior Court, Blue Ridge Judicial Circuit
DATE: July 13, 2020

In accordance with the Orders of the Chief Justice of the Supreme Court of Georgia, the Courts of the Blue Ridge Judicial Circuit shall abide by the following guidelines at all times, including the conduct of in-person proceedings.

1. The Justice Center shall remain open to the public, but individuals not directly involved in proceedings are encouraged to stay home. **If at all possible, do not bring children or family members to the Justice Center with you, especially the elderly.**

2. Be aware of the symptoms of the virus. **If you have been experiencing any of the following symptoms over the last 2-14 days, contact the assigned judge's office before coming to the Justice Center.**

Cough	Fever or chills
Shortness of breath or difficulty breathing	Fatigue
Muscle or body aches	Headache
New loss of taste or smell	Sore throat
Congestion or runny nose	Nausea or vomiting
Diarrhea	

3. All individuals entering the Justice Center will be tested with an infrared thermometer. **If your temperature is 100 or more, you will not be allowed to enter the building and you should contact the assigned judge's office for further instructions.**

4. You will be asked the following questions by the deputies of the Sheriff's Office:

Have you, or anyone you have come in contact with, in the last 14 days tested positive for Covid-19 (coronavirus), or contacted a medical professional because of concerns of Covid-19 infection?

Are you currently experiencing, or have you within the last 14 days experienced, any of the symptoms of the virus?

If you answer yes, to any of these questions, you will not be allowed to enter the building and you should contact the assigned judge's office for further instruction

5. In accordance with the C.D.C. and Georgia Department of Public Health guidelines, **all persons entering the Justice Center shall wear a mask or other face covering over their mouth and nose, unless the person's individual health would be affected, or the person is a**

child two years old or younger. **Masks shall be worn at all times in the common areas of the building (hallways, stairways, bathrooms, lobbies, Law Library, Jury Assembly room, vending machine area) and in any courtroom, unless given permission by the presiding judge to remove it. You are encouraged to bring your own mask, but masks will be made available for anyone who needs one.**

6. Social distancing rules are in effect in and around the Justice Center. **Everyone shall remain at least 6 feet apart from anyone who is not in their party.**

7. You are encouraged to use the stairs. **The elevators have a capacity of two people who are not living in the same household as each other, or one party of people who live in the same household. Priority should be given to individuals with mobility issues.**