

STATE OF NORTH CAROLINA
COUNTY OF BURKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20-R-_____

IN THE MATTER OF THE OPERATION
OF THE SUPERIOR COURT DIVISION
IN JUDICIAL DISTRICT 25-A

ORDER CONCERNING COURT
OPERATIONS FOR THE
NOVEMBER 2, 2020 SESSION

This matter came on before Robert C. Ervin, Senior Resident Superior Court Judge, in the exercise of the Court's in chambers jurisdiction. The undersigned judge makes the following order subject to orders previously entered by Chief Justice Cheri Beasley of the Supreme Court of North Carolina.

1. On March 13, 2020, Chief Justice Cheri Beasley entered an order pursuant to N. C. Gen. Stat. 7A-39(b)(2) determining that catastrophic conditions resulting from a public health threat posed by COVID-19 exist in all counties of this state.
2. On April 2, 2020, Chief Justice Cheri Beasley entered a second order pursuant to N. C. Gen. Stat. 7A-39(b)(2) determining that "catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state."
3. On May 21, 2020, Chief Justice Cheri Beasley entered a third order pursuant to N. C. Gen. Stat. 7A-39(b)(2) determining that "catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state."
4. Emergency Directive 9 issued on May 21, 2020 provides that "no session of court may be scheduled if doing so would result in members of the public sitting or standing in close proximity and/or for extended periods of time in contravention of current public health guidance."
5. The undersigned judge believes that this session of court may be conducted in conformity with Emergency Directive 9.
6. The undersigned Superior Court Judge has reviewed a draft of the calendar for the November 2, 2020 Session of Criminal Superior Court in Burke County and conferred with representatives of the District Attorney's office.
7. This session would normally be an Administrative Session of Criminal court conducted without a jury.
8. There are only a handful of defendants who have cases set for first appearances who are unrepresented and require a counsel determination.
9. There are approximately 213 defendants on the calendar.
10. There are defendants who are in custody either in the Burke County jail or in some other State or local confinement facility. Defendants who are in custody in a facility operated by the State of North Carolina or another county may not be available by writ.

Pursuant to the provisions of the orders entered by Chief Justice Cheri Beasley, it is hereby ordered for the purposes of the November 2, 2020 Criminal Calendar in Burke County that:

1. No calendar call will be held for this session of court.
2. If an attorney files a general appearance in any case on behalf of an unrepresented defendant prior to the beginning of this session of court, neither counsel nor the defendant will be required to appear in open court.
3. The District Attorney's office will contact defense counsel in order to schedule their cases. Defendants who have waived their right to court appointed counsel and who have now retained counsel should have their cases scheduled at their attorney's time slot. Defendants who have waived counsel and not retained counsel may have their cases set at a scheduled time or be worked in with other cases.
4. In cases where the defendant is incarcerated in the Burke County jail, it is anticipated that the matters involving in custody defendants will be heard utilizing the available video equipment to permit the defendant to participate remotely.
5. Any defendant or attorney who believes that they have been exposed to COVID-19 shall contact Justina A. Tate at (828) 433-3288, the District Attorney's office or their attorney for further instructions prior to appearing in court.

This the ___ day of October 2020.

Robert C. Ervin
Senior Resident Superior Court Judge