

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF BURKE

20-R-_____

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

ORDER CONCERNING COURT
OPERATIONS FOR THE
MAY 18, 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. Pursuant to the Chief Justice's second order, all superior court proceedings must be scheduled or rescheduled for a date no sooner than 1 June 2020. Emergency Directive 1.
4. The Chief Justice's second order permits proceedings to be held when "the proceeding will be conducted remotely." Emergency Directive 1, Exception a.
5. The Chief Justice's second order permits proceedings when "the proceeding is necessary to preserve the right of due process of law." Emergency Directive 1, Exception b.
6. The Chief Justice's second order permits proceedings when "the proceeding is for the purpose of obtaining emergency relief." Emergency Directive 1, Exception c.
7. Finally, the Chief Justice's second order permits proceedings when the senior resident superior court judge "determines that the proceeding can be conducted under conditions that protect the health and safety of all participants." Emergency Directive 1, Exception d.
8. Chief Justice Beasley further ordered the Clerk of Superior Court to post notices on the doors at all courthouse entrances directing persons who have likely been exposed to COVID-19 not to enter the courthouse.
9. The undersigned Superior Court Judge has reviewed the calendar for the May 18, 2020 Session of Criminal Superior Court in Burke County and conferred with representatives of the District Attorney's office.
10. It appears that there are six felony or misdemeanor cases set for trial during this session of court. In light of Chief Justice Beasley's order, jury trials should not be conducted.

11. The primary business set for this week is status hearings in the Robinson and Hemphill murder cases. Counsel for the defendants in these cases do not practice in Burke County.

Pursuant to the provisions of the orders entered by Chief Justice Cheri Beasley, it is hereby ordered for the purposes of the May 18, 2020 Criminal Calendar in Burke County that:

1. All trials will be continued to a future date to be determined by counsel for the parties.
2. No calendar call will be held for this session of court.
3. If any of the defendants, who are represented by counsel, desire to enter pleas of guilty, those matters may be scheduled by counsel and the presiding judge.
4. The Court will arrange for the status conferences in the Hemphill and Robinson cases to be conducted by either audio or video rather than in court.
5. In cases where the defendant is incarcerated in the Burke County jail, the counsel determination may be addressed utilizing the available video equipment.
6. 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 May 2020.

Robert C. Ervin
Senior Resident Superior Court Judge