

STATE OF NORTH CAROLINA  
COUNTY OF CALDWELL

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  
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 calendars for the May 18, 2020 Session of Criminal Superior Court in Caldwell County and conferred with representatives of the District Attorney's office.
10. It appears that there are 81 defendants who have cases set for trial during this session of court. In light of Chief Justice Beasley's order, jury trials will not be conducted.

11. There are roughly 72 defendants who have cases set on the motions or probation violations calendar. Many of these defendants are not represented by counsel.

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 Caldwell 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 defendant, who is represented by counsel, desires to enter a plea of guilty, that matter may be scheduled for a specific time slot by counsel and the District Attorney's office.
4. Any defendant in a probation violation case, who is unrepresented, will be sent a letter to permit them to advise the Court of his or her preference with respect to counsel. Any defendant who responds to this letter, will not be required to appear in open court.
5. Unrepresented defendants in probation cases, who fail to respond to this letter, shall appear in open court on May 18, 2020 between 10:00 a.m. and 11:00 a.m. so that the Court can address matters related to the determination of the status of counsel. The letters sent to these defendants specified their designated time to appear in open court.
6. If an attorney files a general appearance in any case on behalf of any unrepresented defendant prior to the beginning of this session of court, neither counsel nor the defendant will be required to appear in open court.
7. In cases where the defendant is incarcerated in the Caldwell County jail, the counsel determination may be addressed utilizing the available video equipment.
8. Any matters to be heard on the motions or probation violations calendar may be scheduled for a specific time slot by counsel and the District Attorney's office.
9. Attorneys and probation officers are encouraged to attempt to resolve probations matters by consent and waiver of hearing if feasible. A form for use in this situation has been provided to defense counsel and probation officers for their use.
10. Any defendant or attorney who believes that they have been exposed to COVID-19 shall contact Lisa Miller at (828) 759-3608, the District Attorney's office or their attorney for further instructions prior to appearing in court.

This the \_\_\_\_ day of May, 2020.

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Robert C. Ervin  
Senior Resident Superior Court Judge