



State of North Carolina
 General Court of Justice
 Superior Court District 16B

FILED

2020 OCT 19 P 4:43

ROBESON CO., C.S.C.

BY: *ahp*JAMES GREGORY BELL
 RESIDENT SUPERIOR COURT JUDGEROBERT F. FLOYD, JR.
 SENIOR RESIDENT SUPERIOR COURT JUDGE

COVID-19
JURY TRIAL RESUMPTION PLAN FOR ROBESON COUNTY
JUDICIAL DISTRICT 16B
Amended

The Senior Resident Superior Court Judge enters this plan for COVID-19 for Court Operations for the management of jury trials. The COVID-19 Jury Plan for Robeson County, Judicial District 16B is submitted in order to comply with the Emergency Directive 22 in Chief Justice Beasley's Order. This plan will provide an environment for our perspective jurors to feel safe while serving as a juror in Robeson County Courts.

Juror Summon Packet

Our Courts have combined a packet that will be sent out to potential jurors which will be Attached as Attachment A: which consist of the following:

1. The jury summons packet consists of jury summons, a letter from the Senior Resident Superior Court Judge in reference to protecting the health of the public and the health of a potential juror.
2. Juror COVID-19 Screening Document questionnaire.
3. Jury Service during COVID-19, frequently asked questions information sheet.
4. Jury Service during COVID-19, frequently asked question information sheet as pertaining to the Robeson County Courthouse.

Juror Reporting

The Jury Clerk will issue the Jury Summons packet that will be mailed to potential jurors. The letter from the Senior Resident Judge ask that each person complete the questionnaire and return by email or your United States Post Office within the deadline date that is given. The Jury Summons provides a process own how to seek deferral or to

be excused. The questionnaire asks several questions in reference to COVID-19, (Exhibit A Attachment).

District Court Judge

The Chief District Court Judge or his or her designee, pursuant to N.C.G.S. §9-6(b), has the discretion to excuse jurors. The jury summons provides a date for jurors to appear in person before a District Court Judge and provide a reason for deferral or excusal. District Court will use the Superior Court courtrooms for their trial sessions.

Superior Court Deferrals, Excusal

After the deadline to appear before a District Court Judge, all excusals and deferrals will be addressed by the Superior Court Judges. The Summons packet will provide clear information regarding how to contact the court if a juror has safety concerns, such as a recent exposure to COVID-19 up to and including the day of jury service, to prevent a juror from appearing in-person who may have been recently exposed but is not within the court's deadline to request an excuse or deferral.

Courtrooms

All courtrooms in the Robeson County Courthouse are set up for a maximum seating capacity, therefore, 6-foot distancing is always in effect. All hallways have signage asking to stay 6 feet apart. Also, signage on the walls to the entrance to elevators giving the capacity limit and signage in stairwells and bathrooms.

Jurors

Jurors will receive information to report to courtrooms on said date of the trial session of court. The jurors will be placed in separate courtrooms to ensure that seating capacity guidelines are followed. Jurors will be placed in panels, only 1 panel of jurors per day and the remaining jury panels will be excused for the day and ask to call the jury information number to receive instructions for the next day. Once a jury has been assembled, the remainder of jurors will be directed when to call back to determine if they will be needed further or excused from jury service. The jury box has been conformed to seat 12 jurors with the 6-foot proper guidelines. Jurors may leave the courthouse for cigarette breaks, or they can return to a courtroom that is set up just for jurors while in recess. Jurors will deliberate in a courtroom and not a jury room for social distancing purposes.

Jurors will receive disposable juror badges that will be disposed of daily and jurors will have to fill out a Daily Juror COVID-19 Screening Document. Also, jurors will have access to three (3) restrooms that will be secluded only for them, that will be stocked with hand soap for hand washing. Face mask and gloves will be provided at juror's request.

Temperature check and questions will be asked at the entrance of the Robeson County Courthouse before you can enter. Hand sanitizer will be available for use at any time.

Scheduling

The Court recognizes that the authority for calendaring criminal cases lies with the District Attorney pursuant to G.S. § 7A-49.4. However, the first 90 days after the Chief Justice's Order allowing for resumption of jury trials, criminal cases selected for trial shall be prioritized by the Senior Resident Superior Court Judge in consultation with the elected District Attorney or his designee and the Public Defender or his designee. In prioritizing criminal trials careful consideration shall be given: how the jury trial can be conducted with safety for the health of all participants; the readiness of the case for trial; age of the case; if the defendant is in custody; number of parties; the expected length of the trial.

Evidence

If a party desires to publish any documentary evidence to the jurors, it will be by electronic means on a flat screen or projector screen. No item of evidence will be passed from juror to juror for examination. If there is evidence that cannot be done by electronics, counsel must submit copies that are pre-marked for jurors, judges, and witnesses. Exhibits shall be pre-marked and copies for judge, witness and court reporter. Counsel must wear gloves while disturbing copies for the court.

Protective Gear

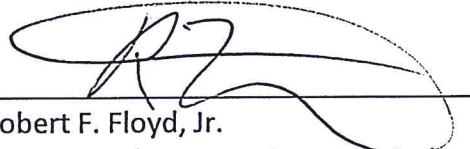
The Court will provide face mask to those that need a mask, will provide a face shield for those that request a face shield, along with gloves and hand sanitizer for the courtrooms and for the jury box.

Health and Safety

The Robeson County Courthouse is following each of the Chief Justice's emergency orders in response to the COVID-19 requirements.

In the event that a juror, party, witness, attorney, judge or other courtroom personnel should become symptomatic, tests positive for COVID, or have been exposed to someone who tests positive during the course of a trial, the Court shall immediately contact the health department and follow that agency's recommendations regarding sanitizing the courtroom, testing of other participants in the trial and quarantine. It will be the Court's decision whether to continue with the trial or declare a mistrial.

This the 30th day of September 2020.

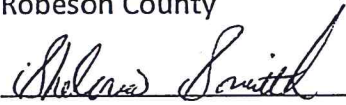


Robert F. Floyd, Jr.
Senior Resident Superior Court Judge
Robeson County
Judicial District 16B

Reviewed and Approved by:



Judith Daniels
Chief District Court Judge
Robeson County



Shelena Smith
Clerk of Superior Court
Robeson County

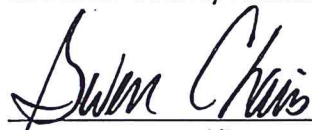


Matt Scott
District Attorney

Ronald Foxworth
Public Defender
Robeson County

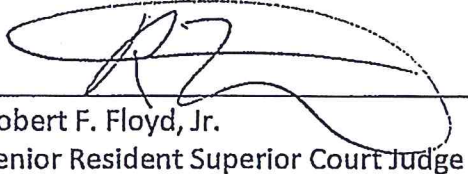
Burnis Wilkins, Sheriff
Robeson County

William Smith
Robeson County Health Department



Gwen Chavis
COVID-19 Facility Coordinator

This the 30th day of September 2020.



Robert F. Floyd, Jr.
Senior Resident Superior Court Judge
Robeson County
Judicial District 16B

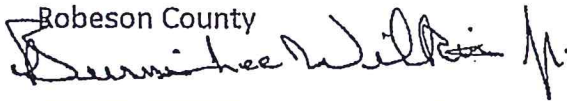
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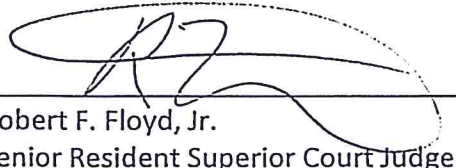


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State of North Carolina
General Court of Justice
Superior Court District 16B

ROBERT F. FLOYD, JR.
SENIOR RESIDENT SUPERIOR COURT JUDGE

JAMES GREGORY BELL
RESIDENT SUPERIOR COURT JUDGE

Dear Potential Juror:

You have been summoned for jury duty. Our courts and our community depend on citizens such as yourself serving on trial juries and grand juries to provide justice. Your service is fundamental to the rights and liberties provided in the United States Constitution and the North Carolina Constitution. I look forward to working with you.

We are living in challenging times caused by the COVID-19 pandemic. The Court must continue to address emergency and time sensitive cases and must do so in a safe manner. Our Court, in consultation with Robeson County Health Department, has engaged in continuous and extensive preparation since early March to keep our Court functioning and to protect the health of those who interact with us. We take public health and safety seriously and have implemented policies to minimize the risk of infection. We have taken the following precautions:

1. Social distancing is required in our Courthouse. The capacity of our courtrooms has been dramatically reduced and seats have been marked to provide a 6 feet space in all directions. Jury pools will not be assembled in the customary large groups.
2. Everyone entering or remaining in the courthouse must wear a face mask unless they meet specific exceptions. Masks are being provided to those who arrive without them.
3. Hand sanitizer is being provided at each courthouse entrance and in the courtrooms. Additionally, gloves will be made available upon request.
4. The Courthouse is being cleaned daily and frequently, touched areas are cleaned continuously throughout the day.

While your service is needed at this session of Court, you previously received a jury summons that provides a process to seek deferment or to be excused from jury service for those that fall within certain limited categories. Please follow those instructions if you seek to be deferred or excused for a non-COVID-19 reason. Additionally, please find enclosed a "COVID-19 Screening Questionnaire." The document must be completed and returned to the Jury Clerk, Robeson County Superior Court. In addition to mailing the documents, you can choose to scan the documents and email them back to robeson.jury@nccourts.org. Juror Summons should be mailed to Robeson County Clerk of Superior Court, only if you request to be excused or deferred, mailing address PO Box 1084, Lumberton, NC 28358. If you are unable to mail or hand deliver your juror excuse form to the Court on time, you may fax to 910-272-5901. If you have any questions, please call 910-272-5915. Finally, up to the moment you arrive at the courthouse, if you need to update any of the questions on the COVID-19 Deferral Questionnaire, please call the number given above before you report to the courthouse.

If you are chosen as a juror, we ask that you provide your own personal pen.

The Court will do its part to provide a healthy and safe environment for you to fulfill your civic responsibility. Thank you for your unselfish service to our community. Without you fulfilling your critical role, our system of justice does not work-and the rights provided in our State and Federal Constitutions go unfulfilled.

Again, thank you for your service.

Sincerely,

A handwritten signature in black ink, appearing to be 'RF' with a large flourish above it, enclosed within a large, sweeping oval stroke.

Robert F. Floyd, Jr.
Senior Resident Superior Court Judge

EXHIBIT A
ATTACHMENT



JUROR COVID-19 SCREENING DOCUMENT

The purpose of this screening document is to assist the Court in protecting the health and safety of jurors throughout jury service. Responses will be used solely for the purpose of determining whether a juror can serve or if service should be deferred; responses to the questions are not public record. You may be contacted by the Court if you answer YES to any of the questions below.

Note to Clerk: This document is not a public record. It should be filed with other confidential juror excuse information that is maintained pursuant to G.S. 9-6(e) and G.S. 9-6.1(b).

Instructions: Please answer the questions below based on your current health and circumstances as of the date you respond. Please return this questionnaire by mail no later than five (5) business days before the date upon which you are to appear. Robeson County Clerk of Superior Court Attn: Jury Coordinator PO Box 1084 Lumberton, NC 28372 or you can fax it to 910-272-5901.

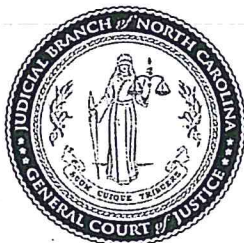
Juror Name (as it appears on the Juror Summons) _____

Telephone number/email address _____

Date completed _____

Jury Date _____

1. Have you been diagnosed with/tested positive for COVID-19? YES NO
 - o If so, when were you diagnosed/what was the date of your positive test? _____
2. In the past 14 days, have you been exposed to COVID-19? YES NO
 - o If so, what is the approximate date of your exposure? _____
3. Have you been directed to quarantine? YES NO
 - o If so, on what date were you directed to quarantine? _____
4. In the past 14 days, has anyone in your household tested positive for COVID-19? YES NO
5. In the past 14 days, have you been in close contact with anyone who has tested positive for COVID-19? YES NO
6. In the past 14 days, have you been notified by your county health department that you were or might have been in close contact with someone who tested positive for COVID-19?
 YES NO
7. Have you been tested for COVID-19 and are awaiting the test results? YES NO
 - o If so, on what date were you tested? _____



DAILY JUROR COVID-19 SCREENING DOCUMENT

The purpose of this screening document is to assist the Court in protecting the health and safety of jurors throughout jury service. Responses will be used solely for the purpose of determining whether a juror can serve.

Note to Court: It is recommended that the Court order this document sealed in order to protect juror confidentiality.

Note to Clerk: Sealed documents shall be filed with the minutes of the court.

Juror Name (as it appears on the Juror Summons) _____

Date completed _____ Jury Date _____

1. Are you currently experiencing COVID-19 symptoms? YES NO

Since you last appeared at the courthouse:

2. Have you been diagnosed with/tested positive for COVID-19? YES NO
3. Have you been exposed to COVID-19? YES NO
4. Have you been directed to quarantine? YES NO
5. Has anyone in your household tested positive for COVID-19 or been directed to quarantine?
 YES NO
6. Have you been in close contact with anyone who has tested positive for COVID-19 or have you been notified by your county health department that you were or might have been in close contact with someone who tested positive for COVID-19? YES NO
7. Have you been tested for COVID-19 and are awaiting the test results? YES NO

I certify, under penalty of perjury, that I am the person named on the juror summons, and the information provided is true and accurate to the best of my knowledge.

Juror Signature

JURY SERVICE DURING COVID-19

FREQUENTLY ASKED QUESTIONS



ROBESON COUNTY COURTHOUSE

Why are the courts summoning jurors when the virus is still going around and there is no cure?

Jury service is one of the cornerstones of our system of justice, expressly provided for in the U.S. Constitution and North Carolina Constitution. The Court has an obligation to uphold the constitutional rights of the citizens of this state, which includes the right to a jury trial.

At this time, the Chief Justice has ordered the postponement of jury trials in district and superior court. In a July 16, 2020 Order, she indicated her intent to extend that postponement through at least the end of September 2020 to give local judicial officials additional time to prepare for the safe resumption of jury trials. We are making every effort to take the necessary steps to keep reporting jurors safe while still protecting the rights of individuals and providing meaningful access to the courts. Counties may hold grand jury proceedings as long as courts provide for social distancing and adhere to the Judicial Branch COVID-19 Task Force Best Safety Practices as set forth in NCAOC's COVID-19 Field Guidance.

What safety precautions are being taken at the courthouse to protect jurors?

Chief Justice Beasley has directed each county and / or district to create a Jury Trial Resumption Plan prior to issuing juror summonses for trial. The plan must ensure that court operations comply with each of the emergency directives that the Chief Justice has issued and must be informed by the Judicial Branch COVID-19 Task Force Best Safety Practices as set forth in NCAOC's COVID-19 Field Guidance.

For example, each plan must include:

- A confirmation that each court facility and any alternate facility to be used for court operations follows each of the Chief Justice's emergency orders in response to the COVID-19 outbreak;
- A plan for conducting jury selection and trials with social distancing in the courtroom and in the deliberation room;
- A plan for daily screening of jurors, court personnel, attorneys, witnesses, and parties for COVID-19 infection;
- A plan for making face coverings available to jurors, court personnel, attorneys, witnesses, and parties; and
- A plan for responding in the event that a juror, defendant, attorney, witness, judge, or other courtroom personnel becomes symptomatic, tests positive for COVID-19, or has a known exposure to someone who has tested positive for COVID-19 during the trial.



JURY SERVICE DURING COVID-19 FREQUENTLY ASKED QUESTIONS



Will a mask be provided if I do not have one?

The Chief Justice has directed each county and / or district to create a Jury Trial Resumption Plan prior to issuing juror summonses for trials. Among other considerations, the plan must include a way to make face coverings available to jurors, court personnel, attorneys, witnesses, and parties.

Do I need to bring my own hand sanitizer?

The Chief Justice has directed that hand sanitizer be made available, at a minimum, at all entrances to court facilities. Please be aware security policies may prevent you from entering the courthouse if you have your own sanitizer. Please check with the [local facility](#) before appearing for court.

If I am selected, how will the jury pool be seated to ensure social distancing?

The Chief Justice has directed each county and / or district to create a Jury Trial Resumption Plan prior to issuing juror summonses for trials. The Jury Trial Resumption Plan must include a plan for conducting trials with social distancing in the courtroom for all court participants, including the jury, as well as in the deliberation room. In addition to other protective measures, the Chief Justice has ordered that spaces where the public and jurors will congregate be marked at intervals of 6 feet to ensure social distancing. Jury selection and / or trials may be held in a different location if the courthouse or courtroom cannot safely accommodate social distancing for jurors.

If selected for a jury, will jurors be seated in a small room to deliberate?

The Jury Trial Resumption Plan must include a plan for conducting trials with social distancing in the deliberation room. The plan that is developed must be informed by the Judicial Branch COVID-19 Task Force Best Safety Practices as set forth in [NCAOC's COVID-19 Field Guidance](#) and must be approved by a wide variety of court leaders as well as the local sheriff and public health director.

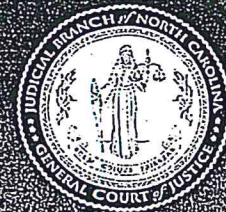
The Chief Justice also ordered that each court facility designate a COVID-19 Coordinator who is directed to determine whether there is adequate space in the court facility to convene a jury trial in keeping with current public health guidance. In making this determination, the COVID-19 Coordinator will take into account the need for the jury to observe social distancing, as well as for jurors to be socially distanced in the courtroom and deliberation room. Jury selection and / or trials may be held in a different location if the courthouse or courtroom cannot safely accommodate social distancing for jurors. If you have additional questions, check with the [local facility](#) before appearing for court.

How long will the trial last?

This will vary by the policies established by each county's Jury Trial Resumption Plan. Courts have been encouraged to limit the trial duration and to prioritize less complex trials that will require less time to hear in order to shorten the time a juror must appear.



JURY SERVICE DURING COVID-19 FREQUENTLY ASKED QUESTIONS



If selected for a jury, will jurors be seated in a small room to deliberate?

Every effort will be made to practice social distancing during jury trials and deliberations. The Chief Justice created a COVID-19 Task Force that has developed guidelines and best practices for the conduct of in-person court proceedings in compliance with current public health guidance. The Chief Justice also ordered that each court facility designate a COVID-19 Coordinator who is directed to determine whether there is adequate space in the court facility to convene a jury trial in keeping with current public health guidance.

In making this determination, the COVID-19 Coordinator will take into account the need for the jury to observe social distancing, as well as for jurors to be socially distanced in the courtroom and any deliberation room. The COVID-19 Coordinator is encouraged to consult with the local public health director, or their designee, in making this determination where possible. Jury selection and / or trials may be held in a different location if the courthouse or courtroom cannot safely accommodate social distancing for jurors. If you have additional questions, check with the [local facility](#) before appearing for court.

How long will I be in court each day?

This will vary by the policies established by each county's COVID-19 Coordinator in collaboration with local court leadership.

What should I do if I am experiencing COVID-19 symptoms prior to my jury service date?

Do not appear at the courthouse to report your symptoms. If you begin experiencing COVID-19 symptoms prior to your jury service date, please inform the [jury coordinator](#) in your county by phone.

What should I do if I experience COVID-19 symptoms during my jury service?

If you begin experiencing COVID-19 symptoms during your period of jury service while at the court facility, please inform the nearest court employee (e.g., clerk, bailiff).

What should I do if I have concerns about the safety measures in the courthouse or if I feel safety precautions are not being followed?

If at any time during your jury service you are concerned about your health or safety due to a lack of safety measures or because guidelines are not being followed (e.g., social distancing is not being practiced, there is no hand sanitizer at the courthouse entrance), please bring your concerns to the attention of the judge, the clerk, or the bailiff to be addressed.





RONALD H. FOXWORTH
PUBLIC DEFENDER

State of North Carolina
General Court of Justice
Defender District 16B

ROBESON COUNTY COURTHOUSE
500 N. ELM STREET
Lumberton, NC 28358
(910) 272-5923
(910) 272-5924 FAX

To: Senior Resident Superior Court Judge Robert F. Floyd, Jr.
From: Ronald H. Foxworth *RHF*
Date: October 6, 2020
Re: Jury Trial Resumption

A defendant has a constitutional right to a fair trial. A critical stage of trial is juror selection or Voir Dire. Another critical phase is witness testimony, which if not the most important phase is certainly critical, as witnesses usually make or break a case. The Defense Attorney is charged with insuring that his client receives a fair trial. No one in the process has a more heightened responsibility. In assessing who makes or is seated on a jury, a lawyer must question and assess each juror to ascertain if that individual is best suited to hear a particular case. Some believe that a case can be won or lost in Voir Dire. No good lawyer takes it lightly. Humans communicate not with just words spoken by mouth. We all assess people by their reactions, positive or negative, by facial expressions, body language, in addition to their spoken words. Face masks conceal a person's appearance, demeanor and reactions. A person can make a statement or give an answer to a question that conveys one thing and a facial expression can convey something else. It is critical to be able to pick up or notice such things in assessing someone's credibility. We do it all the time in our daily interactions. Is it fair to deny that to someone charged with a crime for which they are proclaiming their innocence?

Another District in North Carolina appears to have recognized this concern and addressed it in their proposed plan.

The presiding judge shall require everyone in the courtroom to wear a mask unless they have a medical reason for not doing so. In his/her discretion, the presiding judge may allow a witness, attorney or other party speaking to remove their face mask as necessary for the purposes of speaking, being heard, understood or to assess their credibility.

Upon information and belief, the Administrative Office of the Courts [AOC] is providing clear face masks to the _____ Judicial District for use in trials. Clear face masks shall be issued to all jurors called into the juror box and to witnesses who testify during trial.

October 6, 2020
Jury Trial Resumption
Page 2

Our Jury Resumption plan does not appear to address this issue with the same concern. It is an abdication of my responsibility as Public Defender to not bring attention and concern to this as the representative and guardian of the rights of an accused to a fair trial. If I sign off on our plan as written, have I compromised a defendant's right on any appeal to the fairness of masked jurors and witnesses if found guilty? I think so, as an appellate court could say that the Public Defender signed off on this matter when he signed off on the Resumption Plan without any objection. This would be valid for any case tried out of the Public Defender's office. Does a defendant have a right to refuse to be tried with masked jurors and witnesses? It does not appear so under this plan.

It is not my intention to try and derail things. I just want to be sure I am protecting our clients' rights to a fair trial and to the justice that our Constitution guarantees them. If forced to go forward, there should be something that insures a defendant's right to have this reviewed. This should be guaranteed and not denied by my signature on something that I think could prejudice the defendant.

Other suggestions that I made were not to insinuate our plan did not address these things. I just thought that more could be added to clarify and provide more detail.

All experts do not agree that face shields could not work in a court setting with social distancing and plexiglass barriers. It is the desire of all, I think and I hope, to be safe and at the same time insure that our justice system remains fair and just for which it is known. Since its inception, it has never waived from the pursuit of that objective.


Ronald H. Foxworth
Chief Public Defender

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