

STATE OF NORTH CAROLINA

THE GENERAL COURT OF JUSTICE

JUDICIAL DISTRICT 35

DISTRICT COURT DIVISION

ADMINISTRATIVE ORDER - CRIMINAL

WHEREAS, the Governor of the State of North Carolina and the Chief Justice of the North Carolina Supreme Court have issued Orders for the courts to take appropriate measures to protect health and safety and minimize exposure to COVID-19. Said Orders severely restrict in person hearings that may be held in Criminal District Court through 1 June 2020 (currently), and

WHEREAS, given how long restrictions limiting the numbers and types of hearings are and will be in place, it is necessary to ensure that the Court establish additional policies to address criminal matters in District Court and

WHEREAS the Judicial District Executive Committee continues to meet and consider safety and other issues as we move forward in this crisis and to that end has encouraged Local County specific work groups to be formed to work in consultation with public health officials and make recommendations and

WHEREAS it has become evident as the Courts move to expand operations in the 35th Judicial District there will be necessary limitations on the number and spacing of individuals in Courtrooms, an expanded need to use calendaring authority and other administrative procedures necessary to the safe and efficient administration of justice the Court hereby enters the following TEMPORARY Administrative Order for matters in Criminal District Court in Judicial District 35.

This Order will be in effect for the months of June, and July unless sooner rescinded, or modified or extended by Order. Nothing in this Order shall supersede any subsequent Order of the Chief Justice regarding Court operations.

1. Priority shall continue to be given to proceedings necessary to preserve the right to due process of law (e.g., a first appearance or bond hearing, the appointment of counsel for an indigent defendant, a probation hearing, a probable cause hearing, etc.)
2. For Felony cases pending in District Court when the Defendant is not in custody and neither a demand for a probable cause hearing nor a joint request of the District Attorney and Defendant for case resolution on the Court Date has been filed at least five business days prior to the scheduled hearing date after a waiver of statutory fifteen day time period shall be continued for a period of at least ninety (90) days. This continuance shall occur prior to the Court session without appearance in the Courthouse by Defendant. Filing a joint request for disposition requires the DA and Defense Attorney, or Defendant if unrepresented, to certify that the case is ready for

disposition and all paperwork necessary for the entry of the plea has been completed. To the extent possible this information will be shared electronically with the Clerk and Judge on or before the Court Date so that it will be available for electronic review during the disposition. This will minimize the unnecessary exchange and handling of paperwork and movement in the Courtroom and preserve social distance. Once a case has been continued the Court Date may be modified with consent and the adherence to the add-on procedure in each County that includes but is not limited to appropriate notice that includes the joint request for disposition in writing set forth above.

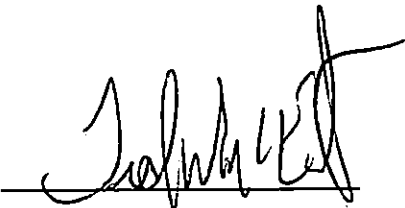
3. For Felony cases pending when Defendant is in custody would remain on the calendar for the scheduled day to address bond, Probable Cause or disposition. The attorneys must contact their clients in custody to determine whether a plea will be accepted, whether demand for PC will occur, whether Defendant consents to use available technology. Bringing Defendants to Court solely to meet with them presents unacceptable safety and security risks.
4. The Court encourages appropriate negotiated pleas with waivers of appearance when Defendants are represented by counsel on misdemeanor charges. This would be a temporary change while this Order is in effect.
5. The Court encourages ECAD, and other electronic communication, with the DA by attorneys representing clients on traffic matters and Defendant's representing themselves for cases that can be resolved outside of court. Attorneys that represent Defendants on traffic matters shall negotiate with the State prior to and outside of the regular Court session.
6. Attorneys shall follow the existing Administrative Court rules of this District and communicate with the proper appearance form submitted prior to the Administrative Court date to obtain their new Court date.
7. For regular criminal District Court sessions, the District Attorney shall schedule time periods for attorneys to be present with their clients or to address cases where they appear on waiver. There will not be a calendar call until the end of the session. The initial time slot will be filled by pro se Defendants that need to address application for counsel, signing waiver, first appearance.
8. When Defendant is not in custody and is charged with felonies and misdemeanors or probation violations, those Defendants shall be present in Court unless their case is continued by the Court. Attorneys representing Defendants in this category shall communicate with the DA and if there is consent to continuance from both parties, this shall be communicated to the Court and Clerk to avoid unnecessary appearance.

9. All new e-citations for traffic matters not involving DWI, HIT/Run, Flee to Elude or DWLR for Impaired Driving revocation shall be set 3 months into the future at time of issuance. This is a change from established practice and is temporary.
10. Trials of infractions shall be continued for at least two months.
11. Priority should be given to victims-rights cases and other serious misdemeanors.
12. The Court encourages the use of remote technology to conduct mediations outside of Court.
13. Each County group will continue to look at additional safety measures including designated waiting areas, Courtroom capacities and distancing.
14. Applications for counsel may be submitted prior to the scheduled Court date with the following affirmation completed:

“I affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true. (Signed) _____”

People who wish to apply for a court appointed attorney may be required to complete the form outside the Courthouse and return it to a specific place and/or at a certain time.
15. The Court strongly encourages the use of appropriate mask or facial covering of the nose and mouth while in the Courtroom. This includes attorneys that appear before the Court and to Defendants.
16. The Court notes that Court proceedings are open to the public unless closed by order. With significantly reduced seating capacities and distancing requirements, priority seating will be given to Defendants, alleged Victims and witnesses under subpoena. and other spectators may be required to leave the Courtroom if additional seating is necessary.

Entered this the 28th day of February, 2024



Ted W. McEntire
Chief District Court Judge