

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
SEPTEMBER 14, 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 September 14, 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 6 defendants who have cases set for first appearances who are unrepresented and who have not previously returned forms to indicate their preference with respect to the status of counsel. There are 16 defendants who have previously waived counsel.
9. There are approximately 209 defendants on the calendar in addition to the unrepresented defendants who not previously waived their right to counsel.

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 September 14, 2020 Criminal Calendar in Burke County that:

1. No calendar call will be held for this session of court.
2. The defendants, who are unrepresented and have not previously waived counsel, will be sent a letter to permit them to advise the Court of their preferences with respect to counsel. Any defendant who responds to this letter, will not be required to appear in open court.
3. Defendants, who fail to respond to this letter, shall appear in open court on September 14, 2020 at 10:00 a.m. so that the Court can address matters related to the determination of the status of counsel.
4. 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.
5. The District Attorney's office will contact defense counsel in order to schedule their cases. The District Attorney's office will prepare a schedule for the hearing of these cases to begin at 10:30 a.m. after the completion of the status of counsel matters set in paragraph 3 of this order.
6. 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.
7. 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 August, 2020.

Robert C. Ervin
Senior Resident Superior Court Judge