

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
APRIL 27, 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 April 27, 2020 Session of Criminal Superior Court in Caldwell County and conferred with representatives of the District Attorney's office.

10. This session would normally be an Administrative Session of Criminal court conducted without a jury.

11. There are 22 defendants who have cases set for first appearances or who are unrepresented having previously waived counsel.

12. There are approximately 22 defendants who are in custody either in the Caldwell 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 April 27, 2020 Criminal Calendar in Caldwell County that:

1. No calendar call will be held for this session of court.
2. The defendants, who are unrepresented or who have 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 April 27, 2020 at the times set forth in the following schedule so that the Court can address matters related to the determination of the status of counsel:

First letter in the Defendant's last name	Time to Appear
A-G	10:00 a.m.
H-M	10:20 a.m.
N-Z	10:40 a.m.

4. If an attorney files a general appearance in any case on behalf of a 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 who represent in custody defendants in order to determine whether guilty pleas will be entered in those cases or whether bond or other matters need to be heard. The District Attorney's office will prepare a schedule for the hearing of these cases involving in custody defendants that may begin 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 Caldwell 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. If any of the defendants who appear on the calendar, who are represented by counsel and who are not in custody, desire to enter pleas of guilty or have other matters heard, those matters may be scheduled by counsel, the District Attorney's office and the presiding judge after the completion of the in-custody cases.

8. 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 April 2020.

Robert C. Ervin
Senior Resident Superior Court Judge