

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
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 the calendars for the September 14, 2020 Session of Criminal Superior Court in Caldwell County, a proposed schedule for these cases and has conferred with representatives of the District Attorney's office.
7. This session is an Administrative session of criminal court to be conducted without a jury.
8. There are 39 defendants on the calendar who have cases set for first appearances or who are unrepresented having previously waived counsel.
9. There are numerous other defendants who have cases on this calendar.
10. There is a separate Probation/Motions calendar for this session of court as well.
11. There are 2 defendants with cases on that calendar who are unrepresented and need a counsel determination.

12. There are approximately 29 defendants on the probation/motions calendar who have attorneys who are representing them or are unrepresented.

13. There are numerous 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 September 14, 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, have been 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 on the probation/motions calendar, 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. Defendants on the regular calendar, who fail to respond to this letter, shall appear in open court on September 14, 2020 at 10:20 a.m. or on Friday September 18, 2020 at their designated times so that the Court can address matters related to the determination of the status of counsel.
5. 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.
6. The District Attorney's office will contact defense counsel who represent other defendants who have cases on the calendars to schedule times for them and their clients to appear in open court to determine whether guilty pleas will be entered in those cases or whether bond or other matters need to be heard.
7. 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.
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 September 2020.

Robert C. Ervin
Senior Resident Superior Court Judge