

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

COUNTY OF CALDWELL

20-R-\_\_\_\_\_

IN THE MATTER OF THE OPERATION  
OF THE SUPERIOR COURT DIVISION  
IN JUDICIAL DISTRICT 25-A

ORDER CONCERNING COURT  
OPERATIONS FOR THE  
JULY 6, 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 printed or draft calendars for the July 6, 2020 Session of Criminal Superior Court in Caldwell County and has conferred with representatives of the District Attorney's office.
7. This session is a trial session of criminal court.
8. In accordance with Chief Justice Beasley's Emergency Directives, no jury trials will be conducted during this term of court.
9. There are approximately 23 defendants who have cases on the trial calendar.
10. There is also a probation violations and motions calendar set for this term of court.
11. There are 14 defendants on the probation violations or motions calendar who have cases set for first appearances or who are unrepresented having previously waived counsel.

12. There are approximately 32 other defendants who have cases on the probation violations and motions calendar.

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.

14. The Court also needs to select new members of the Caldwell County grand jury during this term of court.

Pursuant to the provisions of the orders entered by Chief Justice Cheri Beasley, it is hereby ordered for the purposes of the July 6, 2020 Criminal session of court in Caldwell County that:

1. No calendar call will be held for this session of court.

2. The District Attorney's office will contact defense counsel who represent defendants who have cases on the trial calendar to schedule times for them and their clients to appear in open court for the entry of guilty pleas or bond or other matters which need to be heard. These matters should primarily be scheduled on July 7, 2020 after 11:00 a.m. so that the presiding judge can address these matters while the grand jury is deliberating.

3. The defendants with cases on the probation violations or motions calendar, 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.

4. Defendants, who fail to respond to this letter, shall appear in open court on July 6, 2020 at the times set forth on the notices sent to them 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 defendants who have cases on the probation violations and motions calendar will have their cases heard on July 6, 2020 in accordance with a schedule set by the District Attorney's office. These cases may be scheduled beginning at 10:30 a.m. on July 6, 2020.

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. The jurors summonsed for potential service on the grand jury have been instructed to appear on the morning of July 7, 2020 for that purpose.

9. 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 June 2020.

A handwritten signature in black ink, consisting of the letters 'R', 'C', and 'E' in a stylized, cursive font. The signature is positioned above a horizontal line.

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Robert C. Ervin  
Senior Resident Superior Court Judge