

STATE OF NORTH CAROLINA  
JUDICIAL DISTRICT 26

MECKLENBURG COUNTY

IN RE:

MODIFIED COURT OPERATIONS  
DUE TO COVID-19 PANDEMIC  
SURGE

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
21R40

FILED  
2021 JAN 11 P 1:44

MECKLENBURG CO., C.S.C.

ADMINISTRATIVE ORDER

THIS ADMINISTRATIVE ORDER has been entered to ensure the fair and proper administration of justice and to mitigate the public health threat posed by COVID-19 within the Mecklenburg County Courthouse facilities and amongst court employees and the public. The undersigned Chief District Court Judge enters this Administrative Order pursuant to the inherent authority of the court and pursuant to its administrative supervision and authority over the operation of the District Court pursuant to N.C. Gen. Stat. §§ 7A-41.1, 7A-146, and 15A-535(a), and the inherent authority of the undersigned in the administration of civil procedure for this Judicial District. This Order is intended to address the unprecedented public health threat posed by COVID-19 to the operations of the courts of the 26<sup>th</sup> Judicial District and is subject to modification or termination depending upon multiple factors related to the transmission of COVID-19 in Mecklenburg County.

Whereas, COVID-19 is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new, highly-contagious strain of coronavirus that can be spread from person to person via aerosol droplets; and

Whereas, Governor Roy Cooper declared a State of Emergency in North Carolina on March 10, 2020, in response to the emerging public health threat posed by COVID-19 by entry of Executive Order No. 116, *Declaration of a State of Emergency to Coordinate Response and Protective Actions to Prevent the Spread of COVID-19*; and

Whereas, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

Whereas, the Centers for Disease Control and Prevention (“CDC”) has warned of the extreme public threat posed by COVID-19 globally and in the United States and strongly recommended the practice of social distancing, the use of face coverings and avoidance of in-person gatherings to deter the spread of the virus; and

Whereas, more than 600,000 people in North Carolina have had COVID-19 and over 7,300 people in North Carolina have died from the disease; and

Whereas, over 69,000 people in Mecklenburg County have confirmed COVID-19 infections and 607 people in Mecklenburg County have died from the disease, representing a doubling of infections and deaths over the last 90 days; and

Whereas, there have been substantial increases, compared to July levels, in the percent of emergency department visits for COVID-19 illness, daily new case counts, the percent of COVID-19 tests that are positive, and COVID-19-associated hospitalizations; and

Whereas, one in twenty reported cases of COVID-19 infection in Mecklenburg County were hospitalized in the past week due to the COVID-19 infection; and

Whereas, during the past week, an average of 15.6 percent of individuals who were tested in Mecklenburg County were positive for COVID-19 and the 7-day COVID-19 case rate per 100,000 Mecklenburg County residents has reached an all-time high of 480.6; and

Whereas, during the past week, an average of 473 individuals with laboratory confirmed cases of COVID-19 infections were hospitalized at acute care facilities in Mecklenburg County; and

Whereas, both hospital systems, Novant and Atrium, have reported a record high admitted and ICU census; and

Whereas, Novant has reported a positive test rate of 15-20 percent and Atrium has reported a positive test rate near 15 percent; and

Whereas, Atrium is at 94 percent capacity system wide with surge capacity in the “red status;” and

Whereas, the number of North Carolina counties categorized as “red” or “orange” by the North Carolina Department of Health and Human Services has more than doubled; and

Whereas, since the onset of the pandemic, Judicial Branch officials and employees have reported 291 confirmed positive cases; and

Whereas, over half of North Carolina’s county courthouses have been partially or completely closed due to COVID-19 since the onset of the pandemic; and

Whereas, the Office of the Public Defender for the 26<sup>th</sup> Judicial District has reported several positive COVID-19 cases among staff over the last 45 days and that dozens have been

quarantined over the same period resulting in staffing shortages for which no remedial resources exist; and

Whereas, several members of the staff of the District Attorney for the 26<sup>th</sup> Prosecutorial District have tested positive for COVID-19 and others have been quarantined since the onset of the pandemic; and

Whereas, two district court judges in the 26<sup>th</sup> Judicial District tested positive for COVID-19 and one district court judge was quarantined according to public health guidelines over the last 45 days; and

Whereas, multiple staff of the Clerk of Superior Court for the 26<sup>th</sup> Judicial District have tested positive for COVID-19 since the onset of the pandemic resulting in public health mandated quarantine for dozens of staff and entire units being closed due to staff shortages for which no remedial resources exist; and

Whereas, over a dozen Mecklenburg County Detention Center (MCDC) staff have tested positive for COVID-19 in the last 30 days after reporting to work without symptoms, contributing to spread of the virus in the facility; and

Whereas, the MCDC experienced a substantial outbreak of COVID-19 in the last 30 days and has established housing protocols that restrict inmate movement within and outside of the facility to prevent the spread of COVID-19; and

Whereas, the MCDC housing protocols have placed over one-quarter of the inmates in isolation, quarantine, treatment housing or hospitalization over the past two weeks and these inmates will not be moved for participation in remote or in-person court proceedings; and

Whereas, the Mecklenburg County Health Director has advised the Key Court Officials of the 26<sup>th</sup> Judicial District (KCO) to suspend all non-essential in-person court operations to prevent the spread of COVID-19; and

Whereas, the KCO have unanimously determined that the dire COVID-19 conditions in the 26<sup>th</sup> Judicial District and the recent impacts of COVID-19 infections on MCDC residents and court personnel necessitates immediate action consistent with the advice of the Mecklenburg County Health Director; and

Whereas, these trends and considerations require the undersigned to continue certain public health restrictions to court operations for the 26<sup>th</sup> Judicial District to slow the spread of the virus during the pandemic; and

Whereas, Governor Roy Cooper issued Executive Order No. 169, *Restrictions to Protect Lives During the COVID-19 Pandemic: Phase 3*, on September 30, 2020, as a means to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, reduce the number of people infected, and avoid strain on our health care system; and

Whereas, throughout the State of North Carolina, indoor activity venues are restricted to operations at 30% of the facility capacity and gatherings of persons indoors is limited to 25 persons; and

Whereas the Mecklenburg County Courthouse is visited by over 70,000 people per month; and

Whereas, high-volume sessions of court, heavy dockets, jury trials and long service lines require the public to gather in county courthouses and courtrooms in close proximity for extended periods of time in numbers and under conditions inconsistent with the public health; and

Whereas, the Mecklenburg County Public Health Director has recommended that the occupancy of the Mecklenburg County Court facilities be restricted to 30% of capacity in each office, courtroom, and public area; and

Whereas, it is in keeping with the Governor's Executive Order for the 26<sup>th</sup> Judicial District to take appropriate measures to reduce the population within the Mecklenburg County Courthouse to protect the health and safety of court personnel and the public and reduce the potential exposure of the virus to court staff, personnel, litigants and members of the bar by, suspending non-essential in-person proceedings for 30 days and directing that matters in which a party's confrontation rights are not implicated or are knowingly and voluntarily waived be scheduled for remote hearing.

**WHEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED** that effective January 11, 2021:

All District Court in-person criminal arraignments and trials are suspended for a period of 30 days. Remote sessions will be scheduled at least one day per week for represented and unrepresented persons to be arraigned or to dispose of pretrial motions with the written consent and waiver of personal appearance executed and signed by the defendant.

Probable cause settings for out-of-custody defendants that are required to be scheduled pursuant to N.C.G.S. 15A-606 between January 14, 2021 and February 11, 2021 will be scheduled or rescheduled to a date on or after February 11, 2021. All Domestic Court hearings, except those in which the right of a contemnor to confront witnesses or be present is implicated by the proceeding, shall be presumptively scheduled for a remote hearing in accordance with the Procedures for Remote Hearings in the 26<sup>th</sup> Judicial District established pursuant to this order and in-person hearings are suspended for a period of 30 days. Criminal Contempt matters may be scheduled by the presiding judge upon a determination that the exigency of the circumstances necessitates immediate hearing.

Hearings for permanent relief pursuant to N.C.G.S. 50B-1 may be scheduled for remote hearing with the consent of both parties.

All Abuse, Neglect and Dependency hearings, except for termination of parental rights, adjudication, and disposition hearings, shall be presumptively scheduled for a remote hearing in

accordance with the Procedures for Remote Hearings in the 26<sup>th</sup> Judicial District established pursuant to this order and in-person hearings are suspended for a period of 30 days.

The following delinquency hearings shall be scheduled as remote hearings and should not be continued except for good cause: secure custody review hearings, first appearance hearings, and return indictment hearings.

Juvenile Delinquency adjudication, disposition and review hearings may be scheduled as remote hearings with the consent of the juvenile and parent(s)/guardian(s) provided on the record as a knowing and voluntary waiver of the right to be present for an in-person proceeding.

All actions for establishment or modification of child support brought by or through Mecklenburg County Child Support Enforcement shall be presumptively scheduled for a remote hearing in accordance with the Procedures for Remote Hearings in the 26<sup>th</sup> Judicial District established pursuant to this order and in-person hearings are restricted to criminal contempt matters which may be scheduled in the AM session on Thursdays of each week for the next 30 days.

All actions filed in the Civil Division of District Court, excluding those in which the right of a contemnor to confront witnesses or be present is implicated, shall be presumptively scheduled for a remote hearing in accordance with the Procedures for Remote Hearings in the 26<sup>th</sup> Judicial District established pursuant to this order.

In any case, a party may, for good cause, object to the use of remote audio and video transmissions in accordance with the Procedures for Remote Hearings in the 26<sup>th</sup> Judicial District established pursuant to this order.

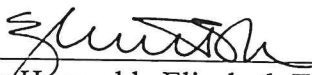
Confidentiality must be maintained for any proceeding required by law to be confidential.

Any remote audio and video transmissions that are required by law to be recorded must be recorded in accordance with the rules established by the Administrative Office of the Courts.

Each party to a proceeding that includes remote audio and video transmissions must be able to communicate fully and confidentially with their attorney if the party is represented.

This order does not extend to proceedings that involve a jury.

Entered and effective, this the 11<sup>th</sup> day of January, 2021 through February 11, 2021.

  
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The Honorable Elizabeth Trosch  
Chief District Court Judge