

20 R 1539

STATE OF NORTH CAROLINA
CUMBERLAND COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR AND DISTRICT COURT DIVISIONS

2020 OCT 19 P 4: 16

IN RE:

CUMBERLAND CO., C.S.C.

COVID-19
JURY TRIALS

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ADMINISTRATIVE ORDER

NOW COMES the undersigned Senior Resident Superior Court Judge and the Acting Chief District Court Judge entering this Administrative Order concerning Jury Trials.

On March 13, 2020, North Carolina Chief Justice Cheri Beasley declared under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the public health threat posed by COVID-19 existed in all counties of this state, and ordered, in Emergency Directive 1, that all Superior Court and District Court proceedings, including jury trials, be rescheduled. Emergency Directive 1 was extended by subsequent orders.

On May 21, 2020, Chief Justice Beasley ordered, in Emergency Directive 10, that “no jury trials shall be convened in the district or superior courts of this State for the next thirty (30) days.” Emergency Directive 10 was extended by subsequent orders.

On July 26, 2020, Chief Justice Beasley, while maintaining Emergency Directive 10 in effect, ordered, in Emergency Directive 22, that each judicial district establish a plan for the resumption of jury trials.

On September 16, 2020 the 12th Judicial District submitted the attached Trial Resumption Plan, attached hereto as ATTACHMENT A. On October 8, 2020 Chief Justice Beasley’s Office and the Administrative Office of the Courts approved the 12th Judicial District Jury Trial Resumption Plan, attached hereto as ATTACHMENT A.

On October 15, 2020 Chief Justice Beasley issued updated Emergency Directives, and specifically entered Emergency Directive 10 that states “no jury trials shall be conducted in the superior or district court of any county unless the Jury Trial Resumption Plan for that county

and relevant trial division has been approved by the Administrative Office of the Courts and entered as a local administrative order”.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The terms and requirements of Emergency Directive 22 are hereby incorporated in this Order as if fully set out herein.
2. That this Order serves as confirmation that the 12th Judicial District and the E. Maurice Braswell Courthouse is in compliance with each of the Chief Justice’s Emergency Directives.
3. That the attached plan, ATTACHMENT A is hereby incorporated into this Order and serves as the official 12th Judicial District’s Jury Trial Resumption Plan.

This the 19 day of October 2020.



James Floyd Ammons, Jr.
Senior Resident Superior Court Judge
12th Judicial District



Toni S. King
Acting District Court Judge
12th Judicial District



**State of North Carolina
General Court of Justice
Superior Court District 12**

JAMES FLOYD AMMONS, JR.
SENIOR RESIDENT SUPERIOR COURT JUDGE

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MARY ANN TALLY
RESIDENT SUPERIOR COURT JUDGE

GALE M. ADAMS
RESIDENT SUPERIOR COURT JUDGE

MEMORANDUM

TO: Cheri Beasley, Chief Justice
McKinley Wooten, Director of AOC

FROM: James Floyd Ammons, Jr., Senior Resident Superior Court Judge
Toni King, Acting Chief District Court Judge
Ellen Hancox, Trial Court Administrator and COVID-19 Coordinator

DATE: September 11, 2020

RE: Resumption of Jury Trials During the COVID-19 Pandemic in the Twelfth Judicial District

This plan is submitted in order to comply with Emergency Directive 22 in Chief Justice Beasley's order dated July 16, 2020 and August 15, 2020.

This plan has been reviewed and approved by the undersigned. An administrative order will be signed approving this plan to resume Jury Trials in Cumberland County and become effective once Emergency Directive 10 expires.

Cumberland County has a Taskforce, known as C4, made up of County Officials, Law Enforcement, and Judicial Officials to implement policies addressing the needs of the County and Courts during the COVID-19 pandemic. This plan and Administrative Order will be given to the C4 Taskforce.

Facilities:

An alternate facility will not need to be used as there are courtrooms that can be utilized in the Cumberland County Courthouse for jury trials. Courtroom 4A is over 2600 square feet and can be used

for either a criminal or a civil jury trial. It has the largest jury box and the largest area from bench to bar. In order to conduct any jury trial with twelve or more jurors, it will be necessary to use a second courtroom for jurors to use when the Court must rule on evidentiary matters and when it is time to deliberate. Courtroom 4B, next to courtroom 4A will be used for this purpose. This courtroom can accommodate 23 people.

Another option for conducting a jury trial would be Courtroom 4B and Courtroom 3B but these courtrooms are only suitable for a civil jury trial with limited parties. There are two jury deliberation rooms available as a space for the jurors to wait when the court must rule on evidentiary matters. If a civil trial is held in 3B or 4B then jury deliberation would take place in the courtroom and the Judge, Counsel and Parties would adjourn to the Judge's Chamber and the two jury deliberation rooms.

The Historic Courthouse was evaluated as a possible site but due to the age and condition of the facility it is not feasible at this time. The Assistant County Manager has said the only county building available for use on a short-term basis is the Crown Auditorium. The committee has not opted to use this facility at this time because it is far from the Courthouse and all supporting personnel.

After evaluating our facility and the social distancing requirements and other COVID-19 protocols, we will only be able to schedule one trial either criminal or civil per session in Superior Court.

Our Civil District Court only meets once a month and very few cases request a jury trial. The courtroom used for Civil District Jury Trials is insufficient for a jury of twelve. If the parties wish to agree to a 6-person jury, we can accommodate this request. The Jurors would be seated in the Audience section with social distancing. The jury deliberation room can accommodate a jury of 6. If a District Civil Jury trial of twelve must be tried immediately, then the Trial Court Administrator, the Chief District Court Judge and the Senior Resident Superior Court Judge will coordinate a time to use two adjoining courtrooms.

Changes in Calendar Call and Pretrial Procedures:

Our Superior Court Judges have agreed to a modified calendar call that will be held in courtroom 4A on the Thursday before the trial session for both Civil and Criminal. Criminal Pretrial conferences will be scheduled on Fridays to ensure that a limited number of people are in a courtroom. At the pretrial conference, Counsel will report readiness, the number of pretrial motions to be heard, the number of witnesses, an estimated length of time each side needs to present their case, and the number of family members or others who wish to attend the trial. The Court will inform counsel of any media interest. The Judges will confer and decide which trial, either civil or criminal will have use of the courtrooms, notification will be made for the trial to be set first and a second trial will be placed on standby. The parties and counsel of the standby trial will not appear until called by the Court.

Changes in Procedures Regarding the Jury Summons and Jury Reporting Process:

Cumberland County currently operates a one day/one trial daily reporting system with jurors reporting at 8:30 am each day. We will amend our summons to bring smaller groups at two different times, 8:30 am and 1:00 pm. We will not summon more than 100 hundred people for each time slot. By limiting the number, we hope for a 50% show rate. We have space to accommodate up to 70 jurors for orientation. Each potential juror will complete a COVID-19 screening questionnaire. They will also complete our local general information one-page questionnaire to aid in jury selection.

Our current jury summons is designed so that an excuse or deferment can be completed and mailed or emailed to our Jury Coordinator. Additionally, the summons does list a day and time each week to make an in-person request. We have extended the amount of time for in person jury excuses, so the public will not arrive at the same time. The room we use for in person excuses allows for social distancing. We will be flexible with deferrals and accommodations. Failure to appear letters to jurors will not be sent during the pandemic and this decreases the number of people who come to the courthouse regarding jury duty. The no show letters directed them to appear at a specific date and time.

We have added a letter with our jury summons that explains that we are mindful of their health and we are committed to social distancing and reminding them that everyone must wear a face covering the entire time they are in the courthouse. Our summons contains a call-in number with updates for jurors and a general information voice message with the email address and mailing address. Our jury coordinator responses to all the mail and email.

On Monday, jurors will report in the morning and in the afternoon, after orientation they will be told to report back on Tuesday morning and Tuesday afternoon to begin jury selection. The oriented jury pool potential jurors will report on Tuesday to specific courtrooms to allow for social distancing during the *voir dire* process for the one trial. The Trial Judge will use Monday to hear pretrial motions.

Social Distancing, Maintenance and Supplies:

All courtrooms and the jury assembly room have been marked with seating that complies with social distancing requirements. Courtroom 4A has space for 27 jury pool members and the remaining jury pool will be seating in courtroom 4B which accommodates 23 and if needed, the jury assembly room accommodates 27. We intend to only have 50 jurors for jury selection at any one time. Staggering the times with morning and afternoon reporting will also assist us in social distancing.

Juror seating will be numbered in 4A and Courtroom 4B so each juror will know exactly where to sit to ensure social distancing. The County has built temporary plexiglass panels for the courtrooms.

Each of these can be moved to suit the need. We have additional plexiglass shields from the Administrative Office of the Courts that can be placed anywhere in the courtroom.

Each juror will be furnished with a bag that contains facemasks, a face shield, Purell wipes, and nametag type juror badges for the week (we understand that the AOC may be working on a standard juror badge.). Once a jury is empaneled, the courtroom clerk will take the temperatures of jurors each day. If anyone has a temperature of 100.4 or higher the presiding Judge and the COVID-19 Coordinator will be notified immediately. The individual with the fever will be excused and told to please consult their physician. The COVID-19 Coordinator will report the facts to the County Health Director. We will follow the advice of the County Health Director.

Jurors will have access to the restrooms in the jury deliberation rooms so there will be limited exposure to courthouse staff or the general public. The jury assembly room has a large refrigerator and microwave and vending machines for their use during the trial. Jurors will have designated parking since parking, this will help with access to the building and decrease exposure to others.

An administrative order has been entered requiring face coverings for everyone who enters and remains in the courthouse (see attached). An administrative order has been entered requiring the County to increase cleaning and maintenance (see attached). Additional hand sanitizer stations have been installed along the public hallways and in each courtroom. Once a trial begins with jury selection, we will have a standing request for the county to sanitize and clean all trial areas daily.

The County has discontinued water service to the courtrooms. This change predated the health emergency. The County added new water fountains in the halls which included a water bottle fill function. After the COVID-19 health emergency, our Committee asked the County to prevent the public from using the water fountains since there is no way to sanitize the fountains.

We will allow potential jurors to bring in water bottles and snacks. We have a supply of face masks, face shields, Purell wipes and hand sanitizer from the AOC and it is part of our standard order.

Contact Information:

During jury orientation, selection and during the trial, jurors will be given the Jury Coordinator's phone number and email address and reminded to inform the court of any change in their health. It is standard practice for our Jury Coordinator to obtain contact information from jurors during orientation. If a juror reports an illness, tests positive for COVID-19 or has a known exposure to someone who has tested positive for COVID-19 during the trial then the COVID-19 Coordinator will be notified immediately and will contact the presiding Judge and County Health Director for guidance on how to proceed.

All Attorneys, parties, witnesses, and court personal will be given the COVID-19 Coordinator's contact information in case they need to report an illness, tests positive for COVID-19 or has a known

exposure to someone who has tested positive for COVID-19 during the trial. The COVID-19 Coordinator will contact the presiding Judge and the County Health direction for guidance on how to proceed.

Technology:

We may need to request from the AOC additional laptops for WebEx or closed-circuit equipment. We may need assistance from the AOC regarding streaming capability from one courtroom to another.

Security:

Sheriff Wright and the Lieutenant of Security at the courthouse are an intricate part of the C4 Task force. They continue to provide valuable insight and input in assisting Court Officials with policies and procedures relating to the safe operation of the Courts during the COVID-19 health emergency.

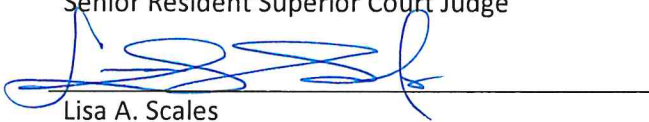
Unknown Factors:

It will take some time to ascertain the number of people who will show up for jury duty. The amount of time to select a jury will take longer due to the limited number of people who can be seated in the courtroom due to social distancing requirements. The overall pace of a trial will be longer. Recesses may have to be more frequent or longer.

This plan has been reviewed and approved by the undersigned.



James Floyd Ammons, Jr.
Senior Resident Superior Court Judge



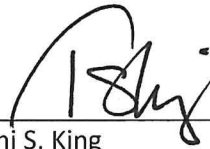
Lisa A. Scales
Clerk of Superior Court



Cynthia P. Black
Interim Public Defender



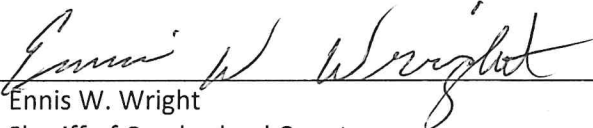
Dr. Jennifer Green
Cumberland County Health Director



Toni S. King
Acting Chief District Court Judge



William R. West
District Attorney



Ennis W. Wright
Sheriff of Cumberland County



Ellen B. Hancox
COVID-19 Coordinator and Trial Court Administrator