

21EX000169  
FILED IN OFFICE  
SEP 28 2021  
DEPUTY CLERK STATE COURT  
FULTON COUNTY, GA

IN THE STATE COURT OF FULTON COUNTY  
ATLANTA JUDICIAL CIRCUIT  
STATE OF GEORGIA

**ORDER GRANTING RELIEF FROM STATUTORY SPEEDY TRIAL  
REQUIREMENTS PURSUANT TO O.C.G.A. § 38-3-62 (b)**

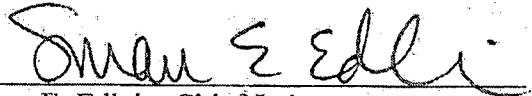
Pursuant to O.C.G.A. § 38-3-62 (b), based upon the findings and certification attached hereto and incorporated herein as Exhibit A, this Court hereby suspends, tolls, extends, and otherwise grants relief from the time deadlines within which to try a case for which a demand for speedy trial has been filed pursuant to O.C.G.A. § 17-7-170 in the State Court of Fulton County, Atlanta Judicial Circuit.

Pursuant to O.C.G.A. § 38-3-62 (b) (9), an order granting relief from statutory speedy trial requirements following a judicial emergency shall not exceed a total of eight months and shall end on the last day of a term of court, and pursuant to O.C.G.A. § 38-3-62 (b) (13), no such order shall issue after June 30, 2023. Accordingly, this Order is issued effective at 12:00 a.m. on the 29<sup>th</sup> day of September, 2021, and shall terminate at 11:59 p.m. on the 1<sup>st</sup> day of May, 2022, a date that is: (1) not more than eight months from the date it is entered; and (2) the last day of a term of the State Court of Fulton County, unless statutory speedy trial requirements are reinstated by the Chief Justice of the Georgia Supreme Court pursuant to O.C.G.A. § 38-3-62 (b) (11). Pursuant to O.C.G.A. § 38-3-62 (b) (12), nothing in this Order shall relieve the State of its constitutional obligation to provide for a speedy and public criminal trial.

It is hereby ORDERED that the Clerk of the State Court shall file this Order on the General Docket. Pursuant to O.C.G.A. § 38-3-63 (1)-(2), it is further ORDERED that a copy of this Order be immediately served by e-mail upon the Chief Justice of the Georgia Supreme Court, the judges and clerks of all courts in this county, the clerk of the Georgia Court of Appeals, and the clerk of the Georgia Supreme Court.

Further, it is ORDERED that notice of the issuance of this Order be given to the affected parties, counsel for the affected parties, and the public in a manner that meets the requirements of O.C.G.A. § 38-3-63 (3) and specifically as follows: this Order shall be published in the Fulton County Daily Report one time per week for four weeks and shall be published on the website for the State Court of Fulton County, [www.fultonstate.org](http://www.fultonstate.org). A copy of this Order shall be mailed to every attorney of record and/or defendant who has a speedy trial demand pending as of the date of this Order. A copy shall also be e-mailed to the Solicitor General of the State Court of Fulton County and Public Defender for the State Court of Fulton County.

SO ORDERED this 28<sup>th</sup> day of September, 2021.



Susan E. Edlein, Chief Judge  
State Court of Fulton County  
Atlanta Judicial Circuit

## EXHIBIT A - CERTIFICATION

Pursuant to O.C.G.A. § 38-3-62 (b) (3), the Chief Judge, with the consent of the majority of the active State Court Judges of the State Court of Fulton County, FINDS and CERTIFIES, in compliance with the requirements of O.C.G.A. § 38-3-62 (b) (2) (B), that compliance with the statutory speedy trial requirements is impracticable in the State Court of Fulton County, Atlanta Judicial Circuit. Specifically, the undersigned finds and certifies as follows:

### (1)

Pursuant to O.C.G.A. § 38-3-62 (b) (2), under the totality of the circumstances arising from the statewide judicial emergency first declared by Chief Justice Harold Melton pursuant to O.C.G.A. § 38-3-61 on the 14th day of March, 2020, and ending on the 30th day of June, 2021, and the local emergency order declared by Chief Judge Chris Brasher, Atlanta Judicial Circuit, on July 1, 2021, and ending at 11:59 p.m. on September 28, 2021, inclusive of any modifications or extensions thereof, compliance with the statutory speedy trial requirements established in O.C.G.A. § 17-7-170 is impracticable in the State Court of Fulton County, Atlanta Judicial Circuit.

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (i), the pending criminal case volume in the State Court of Fulton County is substantially above the average pending criminal case volume that existed at the end of each of the three full calendar years immediately preceding the initial declaration of the applicable judicial emergency. The pending criminal case volume in the State Court of Fulton County currently totals 11,128 pending cases as of September 2021; the pending criminal case volume that existed in 2019 totaled: 8,789; the pending criminal case volume that existed in 2018 totaled: 10,651; the pending criminal case volume in 2017 is unavailable, but 25,544 cases were initiated and 16,992 were disposed.

(2)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (ii), the annualized criminal case clearance rate in the current calendar year in the State Court of Fulton County is substantially below the average criminal case clearance rate for each of the three full calendar years immediately preceding the initial declaration of the applicable judicial emergency. The current annualized criminal case clearance rate in the State Court of Fulton County in 2021 through the date of this order is 63.3 percent; the annualized criminal case clearance rate that existed in 2019 was: 130 percent; the annualized criminal case clearance rate that existed in 2018 was: 115 percent; and the annualized criminal case clearance rate that existed in 2017 was: 67 percent.

(3)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (iii), the number of speedy trial demands pending within one month of the date of this certification in the State Court of Fulton County totals: 57 cases.

(4)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (iv), the number of jury trials held during the last full term of court in the State Court of Fulton County was 9 trials.

(5)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (v), the following ongoing space limitations or other health or safety concerns exist within the State Court of Fulton County that limit the use of facilities available to conduct criminal trials and related activities: Given the persistent public health concerns regarding the community spread of COVID-19, significant limitations still exist in the court facilities of the State Court of Fulton County. Specifically, our Court continues to

require (in addition to other precautions) social distancing in all public spaces and courtrooms. Moreover, even after (hopefully) the lifting of COVID-19 safety protocols, our Court will continue to face significant space limitations in view of the number of criminal cases that will require courtroom appearances. This will remain true despite our Court's acquisition of additional spaces outside the Courthouse facilities that will be used for the hearing and trial of matters that do not present significant security risks. Additionally, as Fulton County has the largest and busiest trial courts in our State, the State Court of Fulton County will continue to face space limitations regarding the summoning of jurors for jury selection. Simultaneous jury trials in the majority of courtrooms is not practical due to COVID safety protocols, including social distancing.

(7)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (vi), there is a limited availability of judges, courtroom personnel, prosecutors, public defenders, expert witnesses, forensic analysis, law enforcement officers, or other relevant persons in the State Court of Fulton County, as follows: Even with 10 state court judges, our Court will continue to face a short-fall of judges available to handle the significant increase in criminal cases as well as the number of cases waiting for jury trials. Our Court developed a plan to utilize senior judges to augment the Court's capabilities, but we expect those senior judge resources to be in short supply as many courts across the state vie for those same resources. There are limitations on the number of jurors currently available. In addition, there are staffing challenges for prosecutors and public defenders.

(8)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (vii), the extent of efforts made by prosecuting attorneys and the Court to reduce the number of criminal defendants held in custody awaiting trial in the State Court of Fulton County are as follows: State Court has issued standing orders regarding

bond applicable to many misdemeanor cases to reduce the number of defendants being held in the jail; the Solicitor General has accused defendants while they are in custody within the Fulton County jail; first appearance calendars are held virtually; and there are regular jail calendars for defendants who remain in custody to evaluate bond requirements and other matters.

(9)

Pursuant to O.C.G.A. § 38-3-62 (b) (2) (B) (viii), other relevant facts that justify ongoing relief from statutory speedy trial requirements in the State Court of Fulton County, if any, are as follows: While the justice system in Fulton County is large and complex, our Court faces the same limitations and challenges faced by courts across Georgia. Specifically, we do not have the personnel, physical plant, technology, and other resources necessary to adjudicate all pending matters within the time allotted under O.C.G.A. § 17-7-170. These practical limitations on capacity have been, and continue to be, exacerbated by the lingering effects of the COVID-19 pandemic on the operations of our Court system. Specifically, our Court cannot summon large numbers of jurors for jury selection. We cannot have large (pre-COVID) in-person calendar calls. Also, we cannot schedule simultaneous in-person proceedings in the majority of our courtrooms, as doing so would prevent appropriate social distancing.

(10)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), State Court has established the following plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible in the State Court of Fulton County. It is hereby ordered that any case in which a valid statutory speedy trial demand has been filed shall be prioritized for trial, with the highest priority being given to any such case in which: (1) the defendant is in custody while awaiting trial; and (2) the defendant is in custody as a result of the charges in the case in which the statutory speedy trial

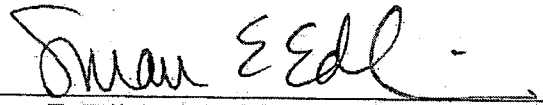
demand has been filed. Such cases shall be further prioritized for trial based upon the length of time that the defendant has remained in custody, awaiting trial. Additionally, the following specific plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible shall apply in the State Court of Fulton County during the time this Order remains in effect: Utilizing funds allocated to the court system in Fulton County by the Fulton County Board of Commissioners from both general funds and monies received under the American Rescue Plan Act of 2021 ("ARPA"), our Court seeks to expand its capacity to adjudicate cases by 25% over the next three years in order to address criminal matters, the adjudication of which has been delayed by the COVID-19 Pandemic and the judicial emergencies. This expanded capacity will involve both increased use of technology in remote proceedings, as well as additional personnel in this Court and in all the agencies within our criminal justice system in Fulton County. Additionally, our Court will continue to prioritize the disposition of criminal cases where the accused remains in custody, those that present the greatest public safety risk, and those that have been pending the longest.

(11)

Pursuant to O.C.G.A. § 38-3-62 (b) (4) (B), in the State Court of Fulton County, the number of jurors available for criminal trials has been significantly limited through the date of this Order when compared to pre-judicial emergency numbers. However, State Court continues to work to expand substantially the number of jurors available for State Court criminal trials. For example, by use of a rotating schedule by which each judge may select a jury in a misdemeanor criminal case, on average, the State Court judges will be able to schedule multiple weeks each month for criminal trials.

This Order has been entered by the undersigned Chief Judge pursuant to O.C.G.A. § 38-3-62 (b) (3) (A).

So certified this 28<sup>th</sup> day of September, 2021.

A handwritten signature in black ink, appearing to read "Susan E. Edlein", written over a horizontal line.

Susan E. Edlein, Chief Judge  
State Court of Fulton County  
Atlanta Judicial Circuit