

**IN THE SUPERIOR COURT OF FAYETTE COUNTY
STATE OF GEORGIA**

**CRIMINAL CASE ASSIGNMENT STANDING ORDER
REQUIRED BY UNIFORM SUPERIOR COURT RULE 3.1
EFFECTIVE JANUARY 1, 2021**

STANDING ORDER NO. 2020-07

The Superior Court of Fayette County, Georgia, hereby enacts the following case assignment plan for all criminal actions effective January 1, 2021, as required by Uniform Superior Court Rule (hereafter USCR) 3.1:

1.

DEFINITIONS

- a. "Judge" or "judges" as used herein denotes a sitting Griffin Judicial Circuit Superior Court judge or judges, unless action by a senior judge is expressly authorized by this Order.
- b. "Clerk" means the Clerk of Superior Court of Fayette County, Georgia.

2.

CALENDAR CLERK

The Clerk of Superior Court of Fayette County is designated as the "calendar clerk" as referenced in Uniform Superior Court Rule 2.4.

3.

DISTRIBUTION OF THIS ORDER

Contemporaneously with filing of this Order, the Court shall email a copy of this Order to the members of the Circuit bar. Also, the Court shall distribute this Order by email and first-class U.S. mail to the District Attorney, Public Defender, Chief Magistrate, County Attorney, Clerk, Sheriff and District Court Administrator.

4.

JUDGE SHOPPING PROHIBITED

Judge shopping is expressly prohibited by USCR 3.2. The Clerk and all sworn deputy clerks shall immediately report in writing any attempt, request, scheme, or method of any person to manipulate or evade the intent of this Order to all five sitting judges. The Clerk shall notify and train all sworn deputy clerks of their duty to comply.

5.

JUDGE ASSIGNMENT ROTATIONS NOT PUBLIC

The permuted rotations of judge selection, which shall be used in assigning all criminal matters, shall not be made public to prevent any effort to evade random case assignment by allowing prediction of the sequence.

6.

METHOD OF RE-ASSIGNING COMPANION CASES

Once a case is assigned to a particular judge and a USCR 4.8 related or companion case is discovered, a written order, signed by both the transferring and receiving judge, is required to re-assign the case.

7.

RE-ASSIGNMENT AFTER DISQUALIFICATION

When a judge re-assigns a case or is disqualified from a case, the judge relieved of duty in that case shall be assigned by the Clerk to the next filed new case. No credit shall be given for the resulting compensatory re-assignment. The Clerk or sworn deputy clerk shall handwrite the factual cause on the rotation for assigning the case out of sequence. The receiving judge shall receive credit for the re-assigned case instead of the disqualified judge. For example, if a judge

recuses from a criminal case, that recusing judge shall be assigned the very next newly filed criminal case without additional credit in the assignment rotation.

8.

MEDICAL EMERGENCIES AT THE JAIL

Notwithstanding any other provision of this Order, after receiving notice from the Sheriff or other jail official that an emergency medical situation involving a defendant in custody has arisen, any Superior Court judge or senior judge assigned at the time to perform duties in the Griffin Judicial Circuit, not necessarily the assigned Superior Court judge, may enter an order allowing bail or release on recognizance of a criminal defendant or civil contemnee. The entry of such an order does not transfer the defendant's case to the Superior Court judge ordering such bail or release on recognizance. The Clerk shall transmit a copy of any such order promptly to the District Attorney, counsel of record, and the assigned judge.

9.

SCHEDULING HEARINGS FOR ANOTHER JUDGE

Notwithstanding any other provision of this Order, the Chief Judge of the Griffin Judicial Circuit may issue needed orders to the Clerk and Sheriff in another judge's assigned criminal case to ensure timely hearing by the assigned judge.

10.

JUDICIAL ASSISTANCE

Without a formal reassignment or transfer, any assigned judge may request in writing temporary assistance from any other sitting judge, who may agree to assist in hearing any case or calendar. The case will remain docketed with the assigned judge. This assistance request shall only be initiated by the assigned judge or that judge's staff. A form Order for the Judicial Assistance is

attached hereto as Exhibit "A". Reasonable notice of the judicial assistance shall be provided to the Clerk. If the 'assisting judge' disposes of any matter by final evidentiary bench or jury trial, the case shall be transferred formally to said judge.

11.

PROCEDURE UPON DISQUALIFICATION OF ALL JUDGES

In the event all sitting Superior Court judges are disqualified from any case, the Clerk shall immediately notify the District Court Administrator for the Sixth Judicial District ("DCA") by emailing a copy of all the recusal order(s) to the DCA, with the Clerk's written advisement that all judges are disqualified.

12.

CRIMINAL CASE ASSIGNMENT

- a. To avoid potential conflicts with cases Judge Coker's staff may have prosecuted while he served as District Attorney, after January 1, 2021, only cases that allege an offense date after September 5, 2020 shall be assigned to Judge Coker. All such criminal cases currently assigned to Judge Ballard shall then be reassigned to Judge Coker. It is the intent of this Order that 1/3 of the criminal cases shall be assigned to Judge Coker, 1/3 shall be assigned to Judge Sams and 1/3 shall be assigned to Judge Miller. To accomplish that distribution, all criminal cases currently assigned to Judge Sams shall remain so assigned. After January 1, 2021, all cases currently assigned to Judge Ballard shall be reassigned to Judge Coker with the exception of cases that allege an offense date of September 5, 2020 or earlier; those cases shall be randomly reassigned to Judge Sams or Judge Miller. All cases currently assigned to Judge Edwards shall be reassigned to Judge Miller. After January 1, 2021, all unassigned criminal cases that

allege an offense date after September 5, 2020 shall be assigned to Judge Coker until the number of open criminal cases assigned to Judge Coker equals the number of open criminal cases assigned to either Judge Sams or Judge Miller. Thereafter, the Clerk shall randomly assign criminal cases so that 1/3 are assigned to Judge Sams, 1/3 are assigned to Judge Coker and 1/3 are assigned to Judge Miller.

- b. The Court has provided to the Clerk a permutated rotation of judge selection, titled "2021 Criminal Case Judge Assignment Rotation" (hereinafter "2021 Criminal Rotation"), which shall be used in assigning all criminal matters filed January 1, 2021, and thereafter. The Clerk or deputy clerk shall assign each case a sequential case number bearing the assigned judge's initials in the strict sequence received and in the strict sequence prescribed, in handwriting only, except as specifically otherwise stated herein.

13.

PAPERFLOW FOR ARREST WARRANTS

Upon the defendant making bond, or upon the conclusion of, or waiver of, a probable cause commitment hearing in the Magistrate Court, whatever comes first, the Sheriff shall deliver every arrest warrant to the Clerk of Superior Court within two business days. The Clerk shall immediately docket the original warrant and forward or make available the original to the District Attorney's Office and make a copy available to the Public Defender's Office within two business days after receipt. All criminal actions shall be uniquely identified and assigned a judge immediately upon receipt by the Clerk of a warrant or specially presented indictment. When a warrant is dismissed by the Magistrate Court or District Attorney, the person signing the dismissal

shall be responsible for delivery of the original or duplicate original of the dismissal to the Clerk of Superior Court, which the Clerk shall file and enter on the docket.

14.

**PROCESS WHEN CRIMES ALLEGED CHANGE
UPON INDICTMENT OR ACCUSATION OF THE CASE**

The assigned judge on the warrant shall remain the assigned judge on the indictment or accusation based on the operative facts alleged in the warrant, even if the crimes alleged are changed when formally accused or indicted.

15.

REASSIGNMENT OF COMPANION CASES

To comply with USCR 4.8, before any indictment or accusation is filed, the Clerk may re-assign a warrant to another judge to properly assign a companion or related case. The Clerk shall handwrite the factual cause on the 2021 Criminal Rotation for assigning the case out of sequence. Notwithstanding any other provision of this Order, when criminal co-defendants previously assigned to different judges are joined on the same indictment or accusation, the Clerk shall recommend re-assignment to the judge assigned earliest to any of the co-defendants.

16.

MOVANT MUST NOTICE HEARINGS

Criminal motions, demands, demurrers, pleas, and other matters requiring judicial action before jury selection shall be noticed for hearing by the movant. Counsel are responsible for noticing hearings sufficiently in advance to ensure hearing and disposition without requiring trial continuances.

17.

HEARINGS ON MOTIONS FOR NEW TRIAL

Whenever a motion for new trial is filed the Clerk shall calendar it for the first criminal hearing date for the assigned judge that is over four months later. If the hearing so set is continued, in the continuance order the judge shall re-set the matter for a date certain.

18.

MAGISTRATE ASSISTANCE WITH PROBATION WARRANTS

Notwithstanding any other provision of this Order, judges of the Circuit's magistrate courts may hear applications and issue arrest warrants for violations of probation, pursuant to O.C.G.A. §15-10-2(1)¹ and O.C.G.A. §42-8-38(a).² Issuance of probation violation arrest warrants in no way affects the case's Superior Court assignment.

19.

PROCESS FOR MATTERS BAILABLE ONLY BY SUPERIOR COURT JUDGE

When the Magistrate Court sends notice to the Chief Judge of Superior Court that a bond hearing or commitment hearing may by law only occur before a Superior Court judge pursuant to O.C.G.A. § 17-6-1(a), the Judicial Assistant to the Chief Judge will identify the assigned judge. The Chief Judge's Judicial Assistant will then request the Clerk to place that case on the assigned judge's next available hearing calendar, to occur within thirty days as prescribed by law. If placed on a calendar by the Chief Judge out of the forum county to satisfy the thirty day hearing requirement, a copy of the hearing notice sent to the Sheriff in the forum county shall by its terms

¹ Magistrate courts have power over the "hearing and applications for and the issuance of arrest and search warrants."

² "Any officer authorized by law to issue warrants may issue a warrant for the arrest of the probationer upon the affidavit of one having knowledge of the alleged violation, returnable forthwith before the court in which revocation proceedings are being brought."

require that Sheriff to transport the defendant to the forum county for bond hearing. The Sheriff shall, upon receipt of such notice and by virtue of this Order, transport the defendant to the county set by the Chief Judge for the bond hearing to occur. The Chief Judge may in his discretion enter orders to the Clerk and Sheriff to cause compliance with law for a timely hearing by the assigned judge, in or out of the forum county.

20.

DEATH PENALTY CASES

When a prosecuting attorney files a notice of intention to seek the death penalty, the Clerk shall transmit a copy of the notice to the Chief Judge of the Superior Court. Notwithstanding any other provision of this Order, after receiving such notice the Chief Judge may enter an order re-assigning the matter to any sitting Superior Court judge, which re-assignment shall supersede the Clerk's assignment. The intent of the law is equality in distribution of caseload among judges,³ but the sequence of assignment of death penalty cases is vested in the Chief Judge by virtue of this Order.

[Signatures on following page]

³ USCR 3.

SO ORDERED this 28 day of October, 2020.

for Scott Ballard

CHRISTOPHER C. EDWARDS
CHIEF JUDGE, SUPERIOR COURT
FAYETTE COUNTY

with permission
Scott Ballard

SCOTT L. BALLARD
JUDGE, SUPERIOR COURT
FAYETTE COUNTY

Ben J. Miller Jr.

BEN J. MILLER, JR.
JUDGE, SUPERIOR COURT
FAYETTE COUNTY

W. Fletcher Sams

W. FLETCHER SAMS
JUDGE, SUPERIOR COURT
FAYETTE COUNTY

Benjamin D. Coker

BENJAMIN D. COKER
JUDGE, SUPERIOR COURT
FAYETTE COUNTY

FILED IN THE OFFICE OF THE CLERK OF
SUPERIOR COURT, FAYETTE COUNTY, GEORGIA
AT 3rd O'CLOCK PM
THE 3rd DAY OF November 2020
Lee Studdard, CLERK *ss*

EXHIBIT "A"

**IN THE SUPERIOR COURT OF FAYETTE COUNTY
STATE OF GEORGIA**

JUDICIAL ASSISTANCE ORDER

The "Assisting Judge" signing below shall be authorized to hear and dispose of the below-listed case(s) and/or calendars on the below-listed dates without a transfer of the case from the Assigned Judge. This Order is effective upon the signatures of the "Assigned" and "Assisting" Judges.

CASE/CALENDAR _____

DATE(S) _____

SO ORDERED this _____ day of _____, 20____.

"Assigned Judge"

"Assisting Judge"

SUPERIOR COURTS
GRIFFIN JUDICIAL CIRCUIT

SUPERIOR COURTS
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