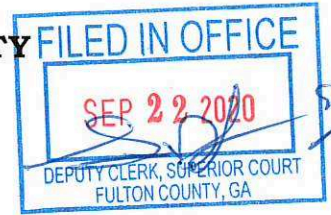


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

2020EX 001090



ORDER RE: CASES ASSIGNED TO NON-COMPLEX DIVISION

This Order establishes the felony offenses that are subject to assignment to the Non-Complex Division of the Superior Court of Fulton County, as well as the exceptions to such assignment. This Order repeals all earlier Orders addressing this topic, including the Administrative Order entered on 7 June 2013 (05172/218-219).

1. Felony offenses assigned to the Non-Complex Division

Cases in which any of the following felony offenses is charged shall be assigned to the Non-Complex Division of the Superior Court of Fulton County, subject to the exceptions set forth in Sections 2 - 4 of this Order:

Damage to and Intrusion upon Property (Chapter 7, Title 16)

OCCA § 16-7-20	Possession of Tools for Commission of Crime
OCCA § 16-7-23	Criminal Damage to Property in the 2 nd Degree
OCCA § 16-7-24	Interference with Government Property

Offenses Involving Theft (Chapter 8, Title 16)

OCCA § 16-8-2	Theft by Taking
OCCA § 16-8-3	Theft by Deception
OCCA § 16-8-4	Theft by Conversion
OCCA § 16-8-5	Theft of Services
OCCA § 16-8-5.2	Retail Property Fencing
OCCA § 16-8-6	Theft of Lost or Mislaid Property
OCCA § 16-8-7	Theft by Receiving Stolen Property
OCCA § 16-8-8	Theft by Receiving Property Stolen in another State
OCCA § 16-8-9	Theft by Bringing Stolen Property into State
OCCA § 16-8-14	Theft by Shoplifting
OCCA § 16-8-14.1	Refund Fraud

OCGA § 16-8-15	Conversion of Payments for Property Improvements
OCGA § 16-8-17	Misuse of UPC Labels
OCGA § 16-8-18	Entering Auto
OCGA § 16-8-20	Livestock Theft
OCGA § 16-8-22	Cargo Theft
OCGA § 16-8-23	Misuse of Fifth Wheel

Forgery and Fraudulent Practices (Chapter 9, Title 16)

OCGA § 16-9-1	Forgery
OCGA § 16-9-5	False Proof of Insurance
OCGA § 16-9-20	Deposit Account Fraud
OCGA § 16-9-21	Uttering Fake Checks
OCGA § 16-9-31	Financial Transaction Card Theft
OCGA § 16-9-32	Financial Transaction Card Forgery
OCGA § 16-9-33	Financial Transaction Card Fraud
OCGA § 16-9-34	Financial Transaction Card Forgery Device
OCGA § 16-9-35	Receipt of Goods Fraudulently Obtained
OCGA § 16-9-36.1	Factoring of Financial Transaction Card Records
OCGA § 16-9-37	Misuse of Financial Transaction Card
OCGA § 16-9-39	Publication of Financial Transaction Card Schemes
OCGA § 16-9-53	Damaging Property to Defraud Another
OCGA § 16-9-58	Failing to Pay for Chattels
OCGA § 16-9-61	Misrepresenting Origin of Agricultural Goods
OCGA § 16-9-70	Use of Article with Altered Identification Mark
OCGA § 16-9-121	Identity Fraud
OCGA § 16-9-121.1	Aggravated Identity Fraud

Offenses against Public Administration (Chapter 10, Title 16)

OCGA § 16-10-20	False Statements
OCGA § 16-10-20.1	Filing False Documents
OCGA § 16-10-28	Transmitting False Public Alarm
OCGA § 16-10-50	Hindering Apprehension of Criminal
OCGA § 16-10-71	False Swearing

Offenses against Public Safety (Chapter 11, Title 16)

OCGA § 16-11-101.1	Furnishing Handgun to Minor
OCGA § 16-11-106	Possession of Firearm during Crime
OCGA § 16-11-111	Possession of Anhydrous Ammonia
OCGA § 16-11-112	Trap Cars
OCGA § 16-11-113	Straw Purchase of Firearms
OCGA § 16-11-123	Possession of Sawed-off Rifle or Other Such Weapon
OCGA § 16-11-126	Carrying Firearm without License

OCGA § 16-11-127.1	Carrying Weapon within School Safety Zone
OCGA § 16-11-131	Possession of Firearm by Convicted Felon
OCGA § 16-11-200	Transporting Illegal Aliens
OCGA § 16-11-201	Harboring Illegal Aliens
OCGA § 16-11-202	Inducing Illegal Alien to Enter State

Offenses against Public Health (Chapter 12, Title 16)

OCGA § 16-12-1	Contributing to Delinquency of Minor
OCGA § 16-12-22	Commercial Gambling
OCGA § 16-12-22.1	Illegal Raffles
OCGA § 16-12-25	Solicitation to Gamble with Intent to Defraud
OCGA § 16-12-28	Communicating Gambling Information
OCGA § 16-12-62	Unlicensed Bingo Operation
OCGA § 16-12-124	Removal of Baggage/Freight from Plane, Train, or Bus
OCGA § 16-12-191	Possession <i>et al.</i> of Low THC Oil
OCGA § 16-12-225	Criminal Conduct by Medical Cannabis Licensee

Controlled Substances (Chapter 13, Title 16)

OCGA § 16-13-1	Drug Related Objects
OCGA § 16-13-30	Possession <i>et al.</i> of Controlled Substances
OCGA § 16-13-30.1	Manufacture <i>et al.</i> of Noncontrolled Substances
OCGA § 16-13-30.3	Possession of Ephedrine
OCGA § 16-13-30.4	Possession <i>et al.</i> of Pseudoephedrine
OCGA § 16-13-30.5	Possession of Substances Used to Manufacture Drugs
OCGA § 16-13-32	Drug Related Object Transactions
OCGA § 16-13-32.1	Drug Related Object Transactions (again)
OCGA § 16-13-32.3	Use of Communication Facility to Commit Drug Crime
OCGA § 16-13-32.4	Distributing Drugs in or near School
OCGA § 16-13-32.5	Distributing Drugs in or near Park or Housing Project
OCGA § 16-13-32.6	Distributing Drugs in or near Drug-Free Comm'l Zone
OCGA § 16-13-42	Unauthorized Distribution of Drugs
OCGA § 16-13-43	Unauthorized Distribution of Drugs (again)
OCGA § 16-13-64	Failure to Submit Prescription Data to State
OCGA § 16-13-79	Distribution of Nitrous Oxide

2. Felony offenses excluded from the Non-Complex Division

Any case that charges a felony offense not listed in Section 1 above shall be assigned by random assignment (or by related older case) to an elected Superior Court Judge. If a case charges multiple felonies and some are included

in Section 1 and others are not, that case shall be assigned to an elected Superior Court Judge.

3. Repeat Offenders

Pursuant to Superior Court Policy 2010-0002, all felony cases in which at least one defendant is a repeat offender shall be assigned to an elected Superior Court Judge, regardless of the felonies charged. A repeat offender is defined, per Policy 2010-0002, as someone with (1) three or more felony convictions in the past five years or (2) five or more felony convictions in total (or both). A repeat offender case that is initially assigned to the Non-Complex Division shall be transferred and appropriately assigned to an elected Superior Court Judge. It is the responsibility of the State to identify a defendant as a Repeat Offender. Any request to transfer a repeat offender out of the Non-Complex Division shall be honored, no matter when filed, provided the identified offender satisfies the above definition.

4. “Complex” Non-Complex cases and other transfers

Occasionally, a case which otherwise qualifies for assignment to the Non-Complex Division is sufficiently complex that it should be transferred to an elected Superior Court Judge. Examples include cases involving thousands of pages of discovery (such that it is not reasonable for the parties to exchange and review all discovery prior to the scheduled final plea date), cases with complex legal issues that will require extensive motions practice, or cases that will require expert litigation (*e.g.*, *Harper* hearings). There is no set measure of what constitutes a “complex” Non-Complex case; it is a determination left to the sound

discretion of the Magistrate Judge managing the Non-Complex docket. The common theme is that the case presents one or more aspects that, in the presiding judge's opinion, require the time and attention of an elected Superior Court Judge.

When considering transfer requests, Magistrate Judges should note that none of the following factors, occurring alone, is sufficient to make a case "complex" and thereby justify a transfer:

- (1) a defendant requiring a competency evaluation¹
- (2) media coverage
- (3) multiple defendants
- (4) multiple counts.

All orders transferring cases from the Non-Complex Division to an elected Superior Court Judge because of the perceived complexity of the case should include specific details as to why the transfer is occurring. Once a Magistrate Judge orders a case transferred, no further action should be taken on that case while it remains in the Non-Complex Division.

SO ORDERED this 21st day of September 2020.



Chief Judge Christopher S. Brasher
Superior Court of Fulton County
Atlanta Judicial Circuit

¹ Only if the evaluation ultimately yields a finding of not competent to proceed -- or if the defendant files a notice of insanity defense -- should the case be transferred on this basis alone.