

STATE OF NORTH CAROLINA
LENOIR COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 R 53

2020 MAY 19 P 2:37

IN RE:

LENOIR COUNTY, O.S.C.

)
(s) *Ma*

ISSUANCE OF SEARCH)

AMENDED

WARRANTS VIA TWO-WAY)

ADMINISTRATIVE ORDER

VIDEO CONFERENCE)

)

THIS ADMINISTRATIVE ORDER is being entered to ensure the fair and proper administration of justice and to mitigate the public health threat posed by COVID-19 by limiting face-to-face meetings between judicial officials and their staff and law enforcement officers. The undersigned enters this Administrative Order pursuant to the inherent authority of the court and pursuant to the undersigned's administrative supervision and authority over the operations of the Superior Court under N.C. Gen. Stat. 7A-41.1 as Senior Resident Superior Court Judge for Superior Court Judicial District 8A of North Carolina.

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 strain of coronavirus that can be spread from person to person, and

Whereas Governor Roy Cooper, on March 27, 2020, issued Executive Order EO121, entitled "Stay at Home Order and Strategic Directions for North Carolina in Response to Increasing COVID-19 Cases," and

Whereas the Chief Justice of the Supreme Court of North Carolina on March 13, 2020 declared that catastrophic conditions exist in all North Carolina counties pursuant to N.C. Gen. Stat. 7A-39(b)(2) and issued directives to suspend all but essential court hearings for a period of no less than 30 days to assist in reducing the spread of infection, and

Whereas the Chief Justice of the Supreme Court of North Carolina on April 2, 2020 issued additional emergency directives pursuant to N.C. Gen. Stat. 7A-39(b)(2) to ensure continuing operation of essential court functions and that catastrophic conditions continue to exist from the COVID-19 outbreak in all counties of this state, and

Whereas, in keeping with the Governor's Executive Order and the Chief Justice's Declaration, the court operations in Superior Court Judicial District 8A have been significantly curtailed, and staff and judicial officials have been asked to stay at home unless their presence in the courthouse is unavoidable, and

Whereas N.C. Gen. Stat. 15A-245(a)(3) permits the issuance of search warrants upon “[o]ral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other,” and

Whereas the North Carolina Administrative Office of the Courts, by a directive issued on March 13, 2020 entitled “NCAOC Temporary Audio Video Policy,” waived any further requirement of pre-approval of a judicial district’s procedures and equipment when utilizing audio video processes, when such processes were permitted by statute and otherwise complied with certain minimum requirements, and

Whereas the Chief Justice’s April 2, 2020 Emergency Directive 3 declares that “Judicial officials throughout the state are hereby authorized to conduct proceedings by remote audio and video transmissions, notwithstanding any other North Carolina statutory or regulatory provision.”

Whereas on May 4, 2020, SB 704 (COVID-19 Recovery Act) was enacted as S.L. 2020-3.1. Among other provisions, the act authorizes “electronic signatures” on certain records of the courts, including orders arising from civil or criminal remote hearings through August 1, 2020. “Electronic signature” is not defined. That temporary law is effective immediately and provides:

CLARIFY ELECTRONIC SIGNATURES FOR SEARCH WARRANTS AND CERTAIN COURT ORDERS

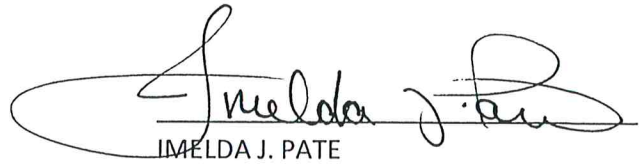
SECTION 4.4.(a) Notwithstanding any other provision of law, any signature required for the issuance of a search warrant pursuant to Article 11 of Chapter 15A of the General Statutes, or on any judicial order issued following a court hearing conducted by remote audio or visual transmission in a civil or criminal case, may be signed by use of an electronic signature.

SECTION 4.4.(b) This section is effective when it becomes law and shall expire on August 1, 2020.

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

1. Resident Superior Court Judges of Judicial District 8A and other Superior Court Judges and Emergency Recall Judges acting in Superior Court Judicial District 8A by commission, may issue search warrants based upon oral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other.
2. Attached hereto as ATTACHMENT A is a procedure to be followed by law enforcement officers seeking the issuance of a search warrant from a Superior Court Judge in Judicial District 8A. This procedure may be modified from time to time by the undersigned.
3. Attached hereto as ATTACHMENT B is a procedure to be followed by law enforcement officers seeking the issuance of administrative (criminal) orders to obtain third-party electronic data (such as Facebook orders, cell phone data, etc.).

This the 19th day of May, 2020.

A handwritten signature in black ink, appearing to read "Imelda J. Pate". The signature is written in a cursive style with a large, sweeping initial "I" and a distinct "P" at the end.

IMELDA J. PATE

Senior Resident Superior Court Judge

Judicial District 8A

ATTACHMENT "A" to AMENDED ADMINISTRATIVE ORDER

**PROCEDURE FOR OBTAINING A SEARCH WARRANT
BY MEANS OF AUDIO AND VIDEO TRANSMISSION**

(For Superior Court - Judicial District 8A (Greene and Lenoir Counties) Only)

To minimize face-to-face contact between Superior Court Judicial officials and their staff and law enforcement officers, effective immediately, all search warrants submitted to Superior Court Judges in the Superior Court Judicial District 8A (Greene and Lenoir Counties), unless excepted by good cause shown by the issuing judge, shall be issued by audio and video transmission. These procedures **do not apply** to search warrants submitted to other judicial officials such as magistrates or district court judges. **These procedures only apply to search warrants submitted to Superior Court Judges in Greene and/or Lenoir County.**

To seek the issuance of a search warrant by a Superior Court Judge in Superior Court Judicial District 8A, law enforcement officers should:

1. Email a scanned copy of the completed AOC-CR-119 (Search Warrant) to Ms. Amy Scott at amy.c.scott@nccourts.org. Prior to emailing, the applicant should date and sign the back of the AOC-CR-119 in the box labeled "Signature of Applicant," and the applicant should sign and date each page attached to the AOC-CR-119.
2. In the email message to Ms. Scott, provide a cell number where the applicant can be easily reached.
3. Ms. Scott will locate a judge available to consider the search warrant. The judge will initiate an audio video conference with the applicant. [Currently, the video conference platform that is preferred is Cisco WebEx. The WebEx application is available for free download when you receive an invitation or can be used via an internet browser without having to download anything; WebEx must be useable on the law enforcement officer's computer.]
4. In the audio video conference, the judge will administer an oath to the applicant, confirm that the applicant adopts all representations made in the AOC-CR-119 and attachments thereto, and issue the search warrant if appropriate. Should additional information be required by the judge, it may be obtained as permitted by statute.
5. Upon issuance of the search warrant by affixing an electronic signature, the judge will scan the issued search warrant and transmit it back to the applicant by email. The judge will also transmit the issued search warrant to the appropriate Clerk of Court, who shall print and retain both the warrant and transmittal email, both of which together will be deemed the original search warrant.

ATTACHMENT "B" to AMENDED ADMINISTRATIVE ORDER

**PROCEDURE FOR OBTAINING AN ADMINISTRATIVE (CRIMINAL) ORDER
BY MEANS OF AUDIO AND VIDEO TRANSMISSION**

(For Superior Court - Judicial District 8A (Greene and Lenoir Counties) Only)

To minimize face-to-face contact between Superior Court Judicial officials and their staff and law enforcement officers, effective immediately, all requests for administrative orders to obtain third-party electronic data (such as Facebook orders, cell phone data, etc.) submitted to Superior Court Judges in the Superior Court Judicial District 8A (Greene and Lenoir Counties), unless excepted by good cause shown by the issuing judge, shall be issued by audio and video transmission. These procedures **do not apply** to administrative orders submitted to other judicial officials such as magistrates or district court judges. **These procedures only apply to administrative orders submitted to Superior Court Judges in Greene and/or Lenoir County.**

To seek the issuance of an administrative order to obtain third-party electronic data (such as Facebook orders, cell phone data, etc.) by a Superior Court Judge in Superior Court Judicial District 8A, law enforcement officers should:

1. Email a scanned copy of the requested administrative order for third-party electronic data to Ms. Amy Scott at amy.c.scott@nccourts.org.
2. In the email message to Ms. Scott, provide a cell number where the applicant can be easily reached.
3. Ms. Scott will locate a judge available to consider the administrative order. The judge will initiate an audio video conference with the applicant. [Currently, the video conference platform that is preferred is Cisco WebEx. The WebEx application is available for free download when you receive an invitation or can be used via an internet browser without having to download anything; WebEx must be useable on the law enforcement officer's computer.]
4. In the audio video conference, the judge will administer an oath to the applicant, confirm that the applicant adopts all representations made in the administrative order and attachments thereto, and issue the order if appropriate. Should additional information be required by the judge, it may be obtained as permitted by statute.
5. Upon issuance of the administrative order by affixing an electronic signature to the order, the judge will scan the issued order and transmit it back to the applicant by email.