IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

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STATE OF GEORGIA, )

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v. ) Indictment No. 19CR3303-7

)

[nAME], )

)

Defendant. )

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**EMERGENCY MOTION FOR SIGNATURE BOND**

COMES NOW DEFENDANT, [nAME] through his undersigned counsel, and hereby moves This Honorable Court to grant a bond reduction in the above referenced action. In support of this motion, Defendant respectfully shows the following:

1. **Procedural History**

The Defendant is charged with having committed the offenses of Driving while License Suspended, in violation of O.C.G.A. § 40-5-121, Driving without Insurance, in violation of O.C.G.A. § 40-6-10, Use of a License Plate to Conceal Identity, in violation of O.C.G.A. § 40-2-5, and Obstruction, in violation of O.C.G.A. § 16-10-24, for an incident that allegedly occurred on April 24, 2017.

The Defendant was arrested on April 9, 2019 and posted bond in the amount of $1,525.00 on April 10, 2019.

Arraignment was scheduled for December 20, 2019, at which time the Defendant failed to appear and this Court issued a bench warrant on that same date. The Defendant was arrested on the bench warrant on February 22, 2020 and remains confined at the DeKalb County Jail.

1. **Extraordinary Circumstances: COVID-19 Outbreak**

Currently, the Atlanta metropolitan area is experiencing a COVID-19 outbreak caused by SARS-CoV-2 via community transmission. An outbreak occurs there is a sudden increase of a disease in a particular time and place. On March 11, 2020 the World Health Organization declared the COVID-19 outbreak is a global pandemic.[[1]](#footnote-1) Public health officials recommended community actions to reduce people’s risk of being exposed to COVID-19.[[2]](#footnote-2)

1. **Georgia’s Response to COVID-19**

On March 12, 2020, the Georgia General Assembly suspended its session due to the spread of COVID-19 SARS-CoV-2.[[3]](#footnote-3) That same day, on March 12, 2020 many Georgia school districts closed due to COVID-19 SARS-CoV2 including, but not limited to Atlanta Public Schools, City Schools of Decatur, Clayton County Schools, DeKalb County Schools, and Fulton County Schools.[[4]](#footnote-4)

Additionally, the Chief Judge of the Stone Mountain Circuit issued an order on March 13, 2020, declaring a Judicial Emergency pursuant to O.C.G.A. § 38-3-60 *et seq*., essentially closing the DeKalb County courts for a period of 30 days for all non-essential matters. The following day, Chief Justice Melton issued an order declaring a State-wide Judicial Emergency for a period of 30 days to all non-essential matters.

1. **Social Distancing**

With confirmed COVID-19 cases that indicate community spread, the time is now to take action to protect vulnerable populations and the community at large. According to the Centers for Disease Controls and Prevention (CDC) the people at higher risk of getting very sick from this illness include: (1) adults over the age of 60 and (2) people who have serious chronic medical conditions like heart disease, diabetes, and lung disease.[[5]](#footnote-5) Because there is no vaccine for SARS-CoV-2, the CDC advises that the best way to prevent COVID-19 is to avoid exposure to the virus. The virus is spread person-to-person between people who are in close contact with one another.[[6]](#footnote-6)

It is now our collective social responsibility to facilitate and participate in social distancing; a task that is nearly impossible inside of a jail or prison. Research has indicated that mitigation efforts can help to reduce the number of daily cases of the coronavirus and reduce the pressure on the healthcare system.[[7]](#footnote-7) The DeKalb County Jail is 25 years old and houses approximately 1,600 inmates. A widespread outbreak of SARS-CoV-2 inside of the DeKalb county jail would not only be difficult to control, but would put substantial financial strain on the DeKalb County Sheriff’s office which is responsible for the medical care of incarcerated persons. The DeKalb County jail has 30 beds for the provision of medical care. Because of limited bed availability, a Covid-19 outbreak would put significant additional strain on local healthcare systems where inmates would be transported to seek care.

Further, people regularly cycle in and out of jails and prisons: inmates who are subject to confinement in close quarters; employees who work in the jail and leave and return daily; and other visitors, attorneys, clergy, and community supervision officers who also routinely come and go. In fact, the DeKalb jail sees approximately 200 new felony arrests on average per week. As such, the jail population turns over frequently and individuals who may have had contact with the virus would be traveling in and out of the jail with regularity. The DeKalb jail population is a pool that has the dangerous potential to amplify the virus and send it back into the community.[[8]](#footnote-8)

This makes prisons and jails particularly vulnerable to COVID-19 outbreaks. For example, outbreaks of the flu regularly occur in jails, and during the H1N1 epidemic in 2009, many jails and prisons dealt with high numbers of cases.[[9]](#footnote-9) Additionally, many people who are incarcerated also have other chronic conditions, which makes them vulnerable to severe forms of COVID-19.

When COVID-19 suddenly exploded in China’s prisons, there were reports of more than 500 cases spreading across five facilities in three provinces. In Iran, 54,000 inmates were temporarily released back into the country as a social distancing.[[10]](#footnote-10)

A court shall be authorized to release a person on bail if the court finds that the person poses no significant threat or danger to any person, to the community, or to any property in the community.[[11]](#footnote-11) Failing to reduce the risks of spreading the virus by releasing individuals from custody in fact creates a serious danger to the community.

1. **DeKalb County Jail Cannot Provide Adequate Care in the Event of an Outbreak**

Jails represent a particular locus of viral amplification and transmission.

Most jails and prisons were constructed to maximize public safety, not to minimize the transmission of disease or to efficiently deliver health care. The probability of transmission of potentially pathogenic organisms is increased by crowding, delays in medical evaluation and treatment, rationed access to soap, water, and clean laundry, insufficient infection-control expertise, and prohibitions against the use of proven harm-reduction tools, such as condoms and sterile needle exchange. The abrupt transfer of inmates from one location to another further complicates the diagnosis of infection, interruption of transmission, recognition of an outbreak, performance of contact investigation, and disease eradication.[[12]](#footnote-12)

Moreover, inmate populations present complicated healthcare histories that present special concerns in the time of the Covid-19 pandemic. On average, half of state and Federal prisoners, as well as local jail inmates, report ever having had a chronic condition.[[13]](#footnote-13) Jail inmates are nearly twice as likely to have reported ever suffering from high blood pressure or hypertension, a risk factor for heart disease.[[14]](#footnote-14) Similarly, jail inmates are nearly half again as likely to suffer from diabetes as the general population.[[15]](#footnote-15) As for lung disease, nearly 25% of inmate populations nationwide present a latent mycobacterium tuberculosis infection.[[16]](#footnote-16) In addition, the active tuberculosis infection rate in inmate population is 6 to 10 times that of the general population.[[17]](#footnote-17) The DeKalb County Jail does screen for tuberculosis upon arrest. Similarly, jail inmates are nearly twice as likely to have reported ever suffering from asthma.[[18]](#footnote-18) Finally, Acquired Immunodeficiency Syndrome is 5 times more prevalent in inmate populations than the general population.[[19]](#footnote-19) The DeKalb County Jail does not screen for Human Immunodeficiency Virus.

The current population of the DeKalb County Jail is approximately 1600 people, although it was built to house 3800. As of the date of this filing, the DeKalb County Sheriff is assigning newly arrested inmates to the general population and distributing throughout the jail. Alternatively, the Sherriff could leverage currently empty floors by assigning inmates arrested during a particular time-period to a specific location and holding them there for a 14-day period. By failing to implement appropriate infection controls, the Sheriff is risking viral amplification within the jail and eventual transmission to the general community.

Moreover, there are only 30 beds available in the jail for individuals that must receive medical attention. Where the jail medical staff is unable to treat an inmate, the Sheriff’s office must transport the individual to a local hospital. Other than transporting individuals to medical facilities, the only other mitigation options available to the Sheriff’s office is lockdown or segregation. Even those measures would be ineffective, as jail staff and/or other inmate workers would have to interact with the jail population to provide food and medicine. There are also substantial psychological costs to being isolated and segregated that are detrimental to the overall health and wellbeing of incarcerated persons.[[20]](#footnote-20)

1. **Defendant is Medically Vulnerable**

The defendant is vulnerable by virtue of being housed in the DeKalb County Jail during a global pandemic without access to adequate resources that would ensure his health and safety. [Client’s medical background and vulnerabilities].

The Defendant moves the court for a bail hearing and an order granting a release on his own recognizance. Because the Defendant is medically vulnerable and at higher risk of getting very sick from this illness, he should not be detained before trial and this court should order release on conditions narrowly tailored to the government’s interests in court appearance and public safety.

V. **Conclusion**

WHEREFORE, the defendant requests that a signature bond be and that he be released from the custody of the DeKalb County Jail pending trial.

Respectfully submitted,

Scott W. DePlonty

Assistant Public Defender

Georgia Bar No. 218868

**CERTIFICATE OF SERVICE**

I certify that I have served a copy of the foregoing pleading upon Franklin E. Engram, Assistant District Attorney by delivering same to District Attorney’s Office - DeKalb County Courthouse, 556 N. McDonough Decatur, Georgia 30030.

      This 16th day of March, 2020.

Scott W. DePlonty

Assistant Public Defender

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1. <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> [↑](#footnote-ref-1)
2. <https://www.sfdph.org/dph/alerts/coronavirus.asp>, <https://abc7news.com/5990803/> [↑](#footnote-ref-2)
3. <https://www.fox5atlanta.com/news/georgia-general-assembly-to-suspend-2020-legislative-session-amid-coronavirus-concerns> [↑](#footnote-ref-3)
4. <https://www.11alive.com/article/news/health/coronavirus/coronavirus-school-closures-georgia/85-745b13b7-32a6-45f3-a041-f765a36e10bc> [↑](#footnote-ref-4)
5. <https://www.cdc.gov/coronavirus/2019-ncov/index.html> [↑](#footnote-ref-5)
6. <https://www.cdc.gov/coronavirus/2019-ncov/about/prevention.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fabout%2Fprevention-treatment.html> [↑](#footnote-ref-6)
7. <https://www.usatoday.com/story/news/health/2020/03/11/coronavirus-flattening-curve-quarantine-stop-spread/5021564002/> [↑](#footnote-ref-7)
8. <https://slate.com/news-and-politics/2020/03/coronavirus-civil-rights-jails-and-prisons.amp?__twitter_impression=true&fbclid=IwAR3v5GwtfkVQPKz9wV-r0Z3K4NPrhSnsrd5zgylqd8idN17RWGP9QQ0k7fs> [↑](#footnote-ref-8)
9. <https://www.theverge.com/2020/3/7/21167807/coronavirus-prison-jail-health-outbreak-covid-19-flu-soap> [↑](#footnote-ref-9)
10. <https://apnews.com/af98b0a38aaabedbcb059092db356697> [↑](#footnote-ref-10)
11. O.C.G.A. 17-6-1 [↑](#footnote-ref-11)
12. Joseph A. Bick, *Infection Control in Jails and Prisons*, 45 Clinical Infectious Diseases, 1047, 1047 (2007). [↑](#footnote-ref-12)
13. Laura M. Maruschak *et al*., Bureau of Just. Stat., U.S. Dep’t of Just. Medical Problems of State and Federal Prisoners and Jail Inmates, 2011-12, (2015). [↑](#footnote-ref-13)
14. Id. [↑](#footnote-ref-14)
15. Id. [↑](#footnote-ref-15)
16. Bick, 45 Clinical Infections Diseases at 1052. [↑](#footnote-ref-16)
17. Bick, 45 Clinical Infections Diseases at 1052. [↑](#footnote-ref-17)
18. Maruschak, U.S. Dep’t of Just. [↑](#footnote-ref-18)
19. Bick, 45 Clinical Infections Diseases at 1053. [↑](#footnote-ref-19)
20. [See](https://slate.com/news-and-politics/2020/03/coronavirus-civil-rights-jails-and-prisons.amp?__twitter_impression=true&fbclid=IwAR3v5GwtfkVQPKz9wV-r0Z3K4NPrhSnsrd5zgylqd8idN17RWGP9QQ0k7fs) Footnote 8 [↑](#footnote-ref-20)