

IN THE SUPERIOR COURT OF BIBB COUNTY  
STATE OF GEORGIA

FILED  
CLERK'S OFFICE  
AUG -9 2007  
SUPERIOR COURT OF  
BIBB COUNTY GEORGIA

IN RE: BIBB COUNTY COURTHOUSE

CIVIL ACTION NO.

CERTIFICATE OF NEED FOR AN ADEQUATE AND SECURE COURTHOUSE

Comes now Bryant Culpepper, Chief Judge, Superior Court, Macon Judicial Circuit and files this Order and shows the following:

1.

This is an order pursuant to O.C.G.A. § 15-6-24 whereby a Superior Court Judge directs the Chief Administrative Officer of Bibb County and the Bibb County Board of Commissioners, the Governing Authority of Bibb County, to provide for and fund a courthouse that will allow the state constitutional officers to carry out their mandated responsibilities and comply with the state laws, all within a safe environment.

2.

The Board of Commissioners and the Chief Administrative Officer are subject to the jurisdiction and venue of this Court. Each of the Commissioners, the Chief Administrative Officer, their officers, agents, and employees act under statutes of the State of Georgia and ordinances of Bibb County, Georgia.

3.

The Bibb County Board of Commissioners and the Chief Administrative Officer are a

corporate political body existing under the Constitution and the laws of the State of Georgia and subject to suit under Georgia law.

4.

Steve Layson is the Chief Administrative Officer of the Bibb County Board of Commissioners, a representative of the Governing Authority, and is therefore subject to this Order.

5.

Commissioner Charles W. Bishop is a member of the Bibb County Board of Commissioners and is therefore subject to this Order.

6.

Commissioner Bert Bivins, III is a member of the Bibb County Board of Commissioners and is therefore subject to this Order.

7.

Commissioner Elmo A. Richardson is a member of the Bibb County Board of Commissioners and is therefore subject to this Order.

8.

Commissioner Joe O. Allen is a member of the Bibb County Board of Commissioners and is therefore subject to this Order.

9.

O.C.G.A. § 15-6-77(e)(2) provides that the Clerk of the Superior Court shall not charge a fee to a subdivision of the State filing a complaint. Likewise there shall be no fee for service of this order.

### Certificate of Need

The Chief Administrative Officer and the County Commissioners are responsible for providing an adequate and safe physical plant for the Bibb Superior Court. While the present facility has served Bibb County with distinction for many years, the county's growth, the need to secure public facilities, the demands of the modern judiciary, and the safety of the public unite against its continued use.

Over a period of time, the Court has investigated the need for a new or renovated courthouse for Bibb County. This inquiry included meetings with architects, courthouse security experts, and others. Also, as part of the procedure, the Court reviewed the applicable Georgia Laws. This inquiry is now complete and certain factual and legal conclusions have been drawn therefrom.

In *McCorkle v. Judges of Superior Court of Chatham County*, 260 Ga. 315, 317 (1990), the Supreme Court noted that the legislature recognized the inherent judicial power to approve expenses for basic needs of the court in O.C.G.A. § 15-6-24, citing *Grimsley v. Twiggs County*, 249 Ga. 632 (1982). (The judiciary has the "inherent power to determine and compel payment of those sums of money which are reasonable and necessary to carry out its mandated responsibilities..."). According to statute, the proper procedure to exercise that power is the issuance of a certificate of need; the court need not issue an order to show cause.

These administrative decisions must be guided by the public interest and a spirit of cooperation among the branches of government. *McCorkle*, 260 Ga. at 317.

This Court has conducted an ongoing dialogue with the county commission over the last several months as we have jointly investigated the needs for a new courthouse, the deficiencies

in the present courthouse, and the relative merits of building a new courthouse vs. renovating the present courthouse.

Because of the joint involvement of Court and Commission in the investigation of these issues, and the stated agreement by several of the commissioners that they agree with the content of this order, and the absence of any disagreement made known to the undersigned with the contents herein, the Court does not find it legally necessary to have a formal hearing before entering this order.

The Court and the Bibb County Board of Commissioners should continue to discuss these matters on an ongoing basis in a spirit of ongoing cooperation and the Court will welcome any future requests for further discussions.

At this point in time, however, it appears and the Court so finds that, despite their best efforts, the Bibb County governing authority has exhausted all reasonable remedial maintenance and renovation alternatives and, therefore, this Court should now step in and go forth. The need for safe and orderly administration of justice demands it.

O.C.G.A. § 36-9-5 imposes upon each county governing authority the duty to erect or repair, when necessary, their respective courthouses, and further, that the same be kept in order and a state of good repair.

The Attorney General has also issued an opinion (78-15) that constitutional county officers have a general right to maintain their offices in the county courthouses. Superior Court Judges, State Court Judges, Probate Judges, Magistrate Judges, and Superior Court Clerks are constitutional officers.

O.C.G.A. § 36-9-8 provides that courthouses are placed in the care of the Sheriff, and it is his duty to preserve it from injury or waste and to prevent intrusions upon it.

O.C.G.A. § 15-6-10 provides that each judge of the Superior Court shall discharge all the duties required of him by the constitution and laws.

Article I, Section 1, Paragraph 11 of the Georgia Constitution guarantees each Georgia citizen the right to a speedy and public trial.

Paragraphs 1 and 2 of Section 1, Article 1 of said Constitution provide that no person shall be denied the equal protection of the laws and that they are otherwise entitled to due process.

Article 6, Section 1, Paragraph 4 of the Georgia Constitution empowers and enables the Superior Court to take whatever action is necessary to effectuate its judgments and to issue writs of mandamus.

From canvassing and compiling the above and foregoing laws, it is apparent to this Court, and it is so found, that the laws of the State of Georgia impose on the County Commissioners an affirmative and proactive responsibility to provide its local county constitutional officers with the physical facilities necessary not only to carry out their duties, but also to ensure that the same do not unreasonably impair or deter the ability of county officers to conduct their business.

An inspection of the existing courthouse facility reveals the following deficiencies which must be corrected in order for Bibb County to comply with the above recited mandates of the state law, to wit:

1. Noncompliance with current building codes including both Life Safety and Handicapped accessibility.
2. Cross circulation of inmates, jurors, judges, and the public in conflict with minimum standards for a secure judiciary on the first floor and on other floors

occupied by the courts.

3. Circulation patterns which may violate the rights of the accused, jeopardize the safety of all participants, and compromise the validity of juror findings possibly leading to reversible error.
4. The presence of the Juvenile Court and limited holding space resulting in multi-function inmate holding areas in violation of appropriate juvenile case process.
5. The presence of numerous hidden areas which are accessible to the public and which constitute a risk to life, safety and security.

In addition, each year, hundreds of citizens of Bibb County are summoned to appear at the courthouse to fulfill their civic duty as grand and traverse jurors. These jurors are placed in cramped and inadequate quarters to deliberate over matters of life, liberty, and property. They are exposed to the same security risks as court personnel and other persons who enter the courthouse. Also, Jurors often struggle to find a place to park, as parking at the courthouse is very limited.

Overall, the Bibb County Courthouse, in its present state, is simply no longer suitable or adequate for the safe and proper processing of criminal or civil matters.

The increased potential for violence in modern society coupled with the lack of adequate physical security measures available in the courthouse have caused the risks to court personnel and members of the public using the courthouse to become precipitous, dire, dangerous, and urgent. Article 1, Section 1, Paragraph 2 of the Georgia Constitution provides that the protection due a person and property is the paramount duty of government and should be impartial and complete. As the state's court of general jurisdiction and the only one with equity powers, Section 15-6-10 of O.C.G.A. vests the Superior Court with the duty to act as the

guardian of these rights and to assure that they are afforded to each Georgian.

Bibb County is a legal and political subdivision of the State of Georgia and the United States of America. Consequently, and as a matter of law, the rights, duties, and privileges guaranteed by the United States and Georgia Constitutions and the laws enacted thereunder insure to the benefit of all of the residents of Bibb County and supersede any local acts or ordinances in conflict therewith.

By virtue of the combined authority contained in paragraphs 1, 2, and 11, of Article 6, Section 1 of the Georgia Constitution, Article 6, Section 1, paragraph 4 of said Constitution, Section 15-6-20 of the O.C.G.A. and the inherent powers of the Court memorialized in *McCorkle, supra*, the Court finds that the existing courthouse facilities are denying the citizens of the State of Georgia who are residing in Bibb County the equal protection of the laws and are otherwise infringing and circumscribing the rights of local constitutional officers to carry out their responsibilities by not affording them a safe, adequate and secure facility to carry out their legal and constitutional mandates. Accordingly, and based on all of the above, the Court does find and order that the commissioners of and for the county of Bibb, State of Georgia, must provide for its constitutional officers and citizens an adequate and secure facility in which to carry out the business of the courts.


The Court has received and reviewed a project specific Space Utilization Study which was prepared and submitted by The Facility Group. The Court supports the conclusion contained therein and would encourage the Bibb County Board of Commissioners to consider the same. Also, the Court notes that the Space Utilization Study fails to consider the needs of the Juvenile Court. As such, special attention will need to be given to this important court in the implementation of any further remedial planning.


By this Certificate of Need, the Court is ordering that the facilities be provided and is not making a determination as to whether or not the same shall be accomplished by renovation or new construction. Neither is the Court rendering an opinion or order as to where the geographical location should be. Those matters are legislative functions and should be left within the province of the County Commissioners.

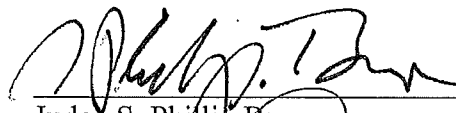
Notwithstanding the foregoing, it is this Court's opinion that any new facility should be constructed within the downtown Macon area and in reasonable proximity to the Bibb County Law Enforcement Center.

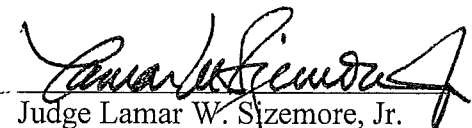
From reviewing the time parameters involved in construction or renovating such facilities in other jurisdictions, it would appear that the above requirements could be satisfied by JULY 1<sup>st</sup>, 2009 and it is **SO ORDERED**.

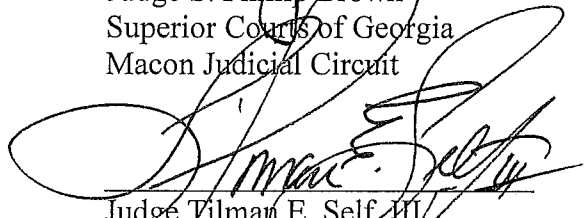
This 31<sup>st</sup> day of July, 2007.

  
Chief Judge Bryant Culpepper  
Superior Courts of Georgia  
Macon Judicial Circuit

  
Judge Martha C. Christian  
Superior Courts of Georgia  
Macon Judicial Circuit

  
Judge S. Phillip Brown  
Superior Courts of Georgia  
Macon Judicial Circuit

  
Judge Lamar W. Sizemore, Jr.  
Superior Courts of Georgia  
Macon Judicial Circuit

  
Judge Tilman E. Self, III  
Superior Courts of Georgia  
Macon Judicial Circuit