

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR SUMTER COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.: S-2019-3

ADMINISTRATIVE ORDER REGARDING: FELONY COURT PROCEDURES

It having come to the attention of the undersigned through a multitude of attorneys that great formality needs to be provided in regard to procedures before the Felony Criminal Court, and the undersigned being told that it is in everyone's best interest to have such procedures reduced to writing, and with the hope that the following guidelines will be of assistance to all concerned in regard to expediting a heavy docket load in the Felony Criminal Court, and being otherwise advised in the premises, it is, upon consideration,

ORDERED AND ADJUDGED as follows:

1. Attorneys practicing in Felony Criminal Court should read and become familiar with the Florida Bar's implementation of the Guidelines for Professional Conduct as adopted by the Fifth Judicial Circuit in the Ideals and Goals of Professionalism and Guidelines for Professional Conduct. Attorneys should also follow the Florida Rules of Criminal Procedure.
2. **ARRAIGNMENTS** – If a defendant is represented by counsel, counsel may submit a written plea of not guilty and waiver of appearance. Counsel and defendants will then be excused from appearance at the arraignment hearing. It will be counsel's responsibility to consult the Clerk of Court to determine the defendant's next court date.
3. **BOND HEARINGS**-Defense counsel and assistant state attorneys must discuss and attempt to agree on a reasonable bond before a bond motion will be set for hearing. If counsel can agree on a reasonable bond, a signed stipulated order should be sent to the Judge for review; this may eliminate the need for a hearing. All bond motions will need to be reviewed by the Court prior to scheduling a hearing. The Court will determine whether a hearing is necessary.

4. **MOTION PRACTICE**-Before scheduling a motion for hearing, defense counsel and assistant state attorney must discuss and attempt to agree to the issues for the motion. If counsel can agree, a signed stipulated order should be sent to the Judge for review. If no agreement can be reached, take a moment to organize your thoughts and have the pertinent file in front of you before scheduling a hearing.
When calling to schedule a hearing, please have all the information needed, such as what date you filed the motion, the case number, the style of the case and the type of hearing. Due to the large number of cases in this Court, all motions are set for the same time. They will be heard as called by the state attorney's office. After obtaining a hearing date, it is counsel's responsibility to file a notice of hearing no less than three weeks prior to the hearing. This will allow time for the hearing to be set on the docket. Counsel should check with the Clerk of Court to ensure the notice of hearing was received and the hearing is scheduled. Failure to follow these requirements will result in the motion not being heard. Counsel are encouraged to provide detail and authority within the body of any motion. As a general observation, motions that contain sufficient detail and are well briefed and cited with legal authority may be more persuasive than those that are lacking.
5. **VIOLATION OF PROBATION (VOP)**- All VOP hearings scheduled after arraignment shall be set for a contested hearing. Parties and counsel must be prepared for contested violation of probation hearings scheduled after arraignments. Counsel should meet well prior to the contested hearing to determine if a resolution can be reached; however, if a resolution is not reached, counsel shall proceed with the contested hearing.
6. Before the date of Trial there shall be a Pre-Trial. At said Pre-Trial, the Court will accept pleas, and do other things that will not require substantial court time, in order to simplify a matter before trial or to obviate the need for the matter to be tried. If a case is resolved by plea agreement, said plea agreement shall be **completely** negotiated, resolved and reduced to writing **prior** to the start of court. The Trial Judge shall maintain control of the proceedings, recognizing that Judges have both the obligation and the authority to ensure that all proceedings are conducted with dignity and decorum. Lawyers shall not attempt to negotiate a case in open court with commentary

directed to opposing counsel or others in the Courtroom. If lengthy motions must be heard, (such as motions to suppress), the matter shall be set with the Court in accordance with the Courts Motion Practice.

7. Upon the conclusion of Pre-Trial, it shall be the responsibility of each counsel to immediately subpoena whatever witnesses they are going to need to try their own case. The burden shall be on counsel to correctly ascertain which cases will plea and which cases must be tried, and to subpoena the witnesses necessary to try the various causes. All witnesses shall be available on the first day of trial week at 8:30 a.m. This is necessary should a Jury be picked so that the Trial may proceed. The crime victims should be available at 8:30 a.m. on the first day of Trial week for consultation with the State should the case resolve at that time.
8. Felony Court shall begin promptly at 9:00 a.m. on the day set, unless otherwise noticed to the parties. During Trial week, the Court shall begin at 8:30 a.m.
9. Unless specifically requested by the Defense Counsel or State Attorney and ordered by the Trial Judge, no PSI shall be ordered unless required by statute or by Florida Rules of Criminal Procedure.
10. Whenever the State or Defense Counsel wishes the Trial Judge to vary from the Sentencing Guidelines (Criminal Punishment Code) recommendations, said Counsel shall provide in writing at least two weeks prior to sentencing a written reason, sustainable by current case and/or statutory law, allowing the Trial Judge to vary from the Sentencing Guidelines.
11. The Trial Judge shall never meet ex-parte with the State, the Defense Counsel, or Probation and Parole, unless the other affected party has been notified of the meeting and counsel can in good faith verify that the other interested party has waived their right to appear at the meeting with the Trial Judge. The Courtroom is equipped with audio and video digital court reporting equipment. Attorneys are reminded that conversations with clients may be recorded so they should be conducted outside the courtroom or the lawyer should otherwise make certain that confidential attorney-client communications are not inadvertently recorded. Attorneys are also reminded that conversations in the Courtroom is probably being heard by everyone in the Courtroom.


12. **Lawyers shall deal with parties, witnesses, jurors or prospective jurors, court personnel and the Judge with courtesy and civility and avoid undignified or discourteous conduct which is degrading to the Court. This shall include a prohibition against gestures, facial expressions, audible comments or the like as manifestations or approval or disapproval.**
13. **While court is in session, there shall be no talking or moving around unless it is the party and attorney responsible for the case before the Court.**
14. **Motions shall not be heard the morning of Trial unless they can be determined during the trial proceedings. If counsel intends to make a motion during trial for any matter, counsel should have the proper legal authority prepared to present to the Court. This would include a motion for judgment of acquittal.**
15. **Counsel shall be punctual and prepared for any court appearance.**
16. **Examination of jurors and witnesses should be conducted from a suitable distance.**
17. **Counsel should refer to all adult persons, including witnesses, other counsel, and the parties by their surnames and not by their first or given names.**
18. **Counsel should request permission before approaching the bench. Approaching the bench is not necessary on every objection. In making objections, Counsel should state the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the Court. Again, counsel should be prepared with legal authority to support their position. Patient firmness as to an objection is expected, even if this requires making the objection more than once; however, gestures, facial expressions, audible comments (not associated with presentation of legal authority) as manifestations of approval or disapproval is not proper.**
19. **Counsel should address all public remarks to the Court and not opposing Counsel.**
20. **Counsel should avoid disparaging personal remarks towards opposing Counsel.**
21. **Attorneys are encouraged to communicate with opposing Counsel on all issues of concern in their case. Counsel should at all times be civil and courteous in communications with adversaries, whether oral or in writing.**
22. **A lawyer should adhere strictly to all promises and agreements with opposing**

Counsel, whether oral or in writing.

23. Before setting a motion for hearing, counsel should make an effort to resolve the issue. Counsel should not force his or her adversary to make a motion and then not oppose it.
24. Prior to the Pre-Trial Conference:
 - A) The Attorneys should be familiar with the facts, witnesses and evidence in the case.
 - B) The Attorneys should be sure discovery is completed or address the need for additional discovery with opposing counsel in advance.
 - C) If Defense Counsel is requesting a continuance, counsel should obtain agreement from their client upon a full explanation of the speedy trial rule and the clients consent to waive the right to a speedy trial. The request must be made in writing at least two weeks prior to the hearing. Failure to comply will require the motion to be heard at the hearing.
 - D) If counsel has a conflict with attending a hearing that could not be foreseen two weeks prior to the hearing, counsel should make arrangements with other counsel to attend and request a continuance.

DONE AND ORDERED in Chambers at Bushnell, Sumter County, Florida, this

3rd day of January, 2019.


WILLIAM H. HALLMAN, III
ADMINISTRATIVE JUDGE