

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF FLORIDA

ADMINISTRATIVE ORDER NO.: A-2011-10-A

**AMENDED ORDER REGARDING EX-PARTE COMMUNICATIONS,
TELEPHONE CALLS AND/ PLEADINGS, MOTIONS AND NOTICES FROM
FRIENDS, FAMILY, RELATIVES OF DEFENDANTS, VICTIMS AND/OR
WITNESSES IN FELONY AND/OR MISDEMEANOR CASES
AND
CLARIFICATION FOR THE CLERK OF COURTS**

It having come to the attention of the Undersigned that recently, this Court has experienced a significant increase in the number of ex-parte telephone calls and/or letters to the Court from friends, family members and relatives of Defendants, victims and/or witnesses in felony and/or misdemeanor cases. In these communications, it is requested (and sometimes demanded) that the Court cause something to be done in a case, or to communicate information to the Judge **ex-parte**. (**Ex-parte communication** is communication from one side only, without notice to the other side. The Code of Judicial Conduct does not permit a judge to read or consider **ex-parte communications**).

There are only two parties to a criminal case. The first is the State of Florida. The State is the Plaintiff who files criminal charges against the Defendant. The second party is the Defendant, who could be represented by the Public Defender or a private attorney.

The office of the State Attorney may file motions and pleadings on behalf of the Plaintiff, the State of Florida. The Office of the Public Defender or the Defendant's privately hired attorney may file motions and pleadings on behalf of the Defendant. No other persons can file pleadings or motions in the case, or ask that action be taken in the case via telephone, letter or any other method of communication.

Friends, family members, spouses, girlfriends and relatives of the Defendant are not parties to the litigation. They lack standing to file any legal pleadings or motions in the case.

Even Defendants, who are parties in the case are limited from filing pro se motions in their own cases. *See e.g., Salser v. State*, 582 So 2nd 12 (Fla 5th DCA 1991) (court properly refused to consider pro se motion to discharge under speedy trial rule since pro se motions are invalid where the defendant is represented by an attorney). Again, a defendant's spouse, girlfriend, mother, relative or acquaintance cannot file motions in the case.

Again, friends or family members have no standing to file legal motions. They have no standing to intervene in a criminal case. Indeed, the filing of legal motions or pleadings by lay persons who are not parties to the suit may constitute the unauthorized practice of law, which is a Third Degree Felony, prohibited by Florida Statute 454.23.

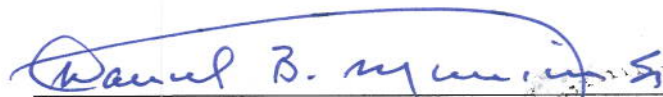
It is also ordered that letters, such as character references or sentencing recommendation letters, be sent, not to the court, but to the Defendant's attorney. The defendant's attorney will then decide whether the letter should be provided to the Court, with a copy to the State.

Again, an **ex-parte communication** is communication from one side only, without notice to the other side. The Code of Judicial Conduct does not permit a Judge to read or consider **ex-parte communications**. The Judge may only consider matters presented in open court with all parties present or correspondence which clearly reflects that a copy was provided to the other side. A person may not simply call the Judge's office and ask that something be done on a case. If something needs to be done the case, the attorneys should be contacted to file appropriate motions, which would then be set for hearing in open court with all parties present.

IF YOU ARE A PARTY, VICTIM, WITNESS, OR A RELATIVE AND YOU CONTACT THE COURT, THE COURT WILL PROVIDE YOU WITH ONLY THE DEFENDANT'S NEXT COURT DATE AND THE NAME OF THE DEFENDANT'S ATTORNEY, IF ANY. IF YOU ARGUE WITH THE JUDICIAL ASSISTANT OR CONTINUE TO INSIST THAT THE COURT CAUSE SOMETHING TO BE DONE IN THE CASE, THE JUDICIAL ASSISTANT WILL ASK FOR YOUR MAILING ADDRESS SO THAT A COPY OF THIS ORDER CAN BE SENT TO YOU.

THIS ORDER IS NOT INTENDED TO BE A DIRECTIVE TO THE CLERK OF THE COURTS AND IN NO WAY SHOULD BE CONSTRUED AS TO PROHIBIT OR IMPEDED THE CLERK OF COURT FROM PERFORMING THEIR DUTIES AS IT PERTAINS TO ACCEPTING FILINGS FROM ANY PERSON IN ANY CASE.

DONE AND ORDERED in Chambers in Brooksville, Hernando County, Florida, and this 9th day of June, 2011, *nunc pro tunc* May 2, 2011.



DANIEL B. MERRITT, SR.,
CHIEF JUDGE
FIFTH JUDICIAL CIRCUIT

