

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

ADMINISTRATIVE ORDER: M-2023-44

**ADMINISTRATIVE ORDER REGARDING MOTIONS TO COMPEL
FINGERPRINTS AND MOTIONS TO COMPEL DNA SAMPLES**

WHEREAS, Florida Rules of General Practice and Judicial Administration 2.215(a) fixes administrative responsibility for ensuring the efficient and proper administration of all courts within the circuit in the Chief Judge of the Fifth Judicial Circuit, and other judges he may designate;

WHEREAS, pursuant to Florida Rules of General Practice and Judicial Administration 2.215(b)(5) and by Administrative Order, the Chief Judge designated the undersigned judge as Administrative Judge for Marion County, and has ordered that all administrative oversight of the Circuit and County Courts in Marion County will be provided by the Administrative Judge of Marion County; and

WHEREAS, Florida Rule of Criminal Procedure 3.220(c)(1) provides that a Court may require defendant in a criminal case to be fingerprinted or to permit the taking of samples of DNA samples from his or her body;

WHEREAS, motions of this nature are routinely granted without objection or with only a non-substantive, *pro forma* objection;

WHEREAS, it is deemed necessary and appropriate for the prompt, effective, and efficient administration of justice to adopt uniform procedures to handle motions to compel fingerprints and motions to compel DNA samples in criminal cases;

WHEREAS, these uniform procedures will result in a decreased burden on law enforcement agencies

It is therefore **ORDERED** that Motions to Compel Fingerprints and Motions to Compel DNA Samples filed by the State of Florida in criminal cases be handled as follows:

1. All Motions to Compel Fingerprints and Motions to Compel DNA samples, filed by the State of Florida in any criminal case, will be noticed for a hearing that will be scheduled as follows:
 - a. The hearing shall be before the Judge presiding over felony arraignments; and
 - b. The hearing shall be on the day of the week upon which felony arraignments occur; and
 - c. The hearing shall be scheduled to occur immediately following felony arraignments.
2. The Judge presiding over felony arraignments is hereby authorized to rule upon those Motions to Compel Fingerprints and Motions to Compel DNA samples, regardless of

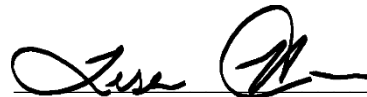
whether he/she is the judge presiding over the criminal case in which the Motion was filed.

3. In any case in which the Defendant wishes to lodge a substantive objection to the granting of a Motion to Compel Fingerprints or Motion to Compel DNA samples, the Defendant may request that the motion be heard by the judge presiding over the criminal case. In that instance, the Motion shall be noticed for a hearing to occur before the presiding judge.
4. In any case in which the State and the Defendant agree for a Motion to Compel Fingerprints or a Motion to Compel DNA samples to be heard by the judge presiding over the criminal case, the Motion shall be noticed for a hearing to occur before the presiding judge.
5. All Orders granting motions to compel fingerprints or DNA samples shall order the Defendant to submit to the taking of fingerprints and DNA samples, pursuant to the following directions:
 - a. If the Defendant is in attendance at the hearing, the Defendant shall immediately submit to the taking of fingerprints or DNA samples by law enforcement personnel present at the hearing for that purpose.
 - b. If the Defendant is not in attendance at the hearing, and is in the custody of the Marion County Jail, then:
 - i. Personnel from the investigating law enforcement agency shall collect the Defendant's fingerprints or DNA samples on the Friday immediately following the hearing, at the Marion County Jail (3290 NW 10th Street, Ocala, Florida 34475) beginning at 3:00 p.m.
 1. However, if the Friday immediately following the hearing is a holiday, then the fingerprint and DNA samples will be collected on the next business day immediately following the holiday, beginning at 3:00 p.m.
 - ii. Counsel for the Defendant may be present during the taking of the fingerprints or DNA samples. If Counsel for the Defendant wishes to be present, they shall have gained admittance to the Marion County Jail through the main entrance and shall be present in the Booking Section of the Marion County Jail not later than 3:00 p.m. on that date.
 - c. If the Defendant is not in attendance at the hearing, and is on pretrial release, then:
 - i. The Defendant shall appear during normal business hours at the office of the investigating law enforcement agency not later than 2:00 p.m. on the Friday immediately following the hearing and permit his/her fingerprints or DNA samples to be taken.
 1. However, if the Friday immediately following the hearing is a holiday, then the Defendant shall appear at the offices of the

investigating law enforcement agency during normal business hours on the next business day immediately following the holiday, by 2:00 p.m.

- ii. If Counsel for the Defendant wishes to be present for the collection of fingerprints and DNA samples, they may appear with the Defendant at the law enforcement agency.
 - iii. Each law enforcement agency in Marion County shall provide to the State Attorney's Office the address at which the Defendant should appear for the collection of fingerprints and DNA samples. The State Attorney's Office shall include that address in Orders to Compel that it submits to the Court.
6. All Orders granting a motion to compel fingerprints or DNA samples shall also contain the following:
- a. A direction to the investigating law enforcement agency that the Defendant shall not be questioned during the taking of fingerprints or DNA samples.
 - b. A warning to the Defendant that his or her failure to submit to the taking of fingerprints or DNA samples may subject the Defendant to contempt of court and may result in a revocation of pretrial release.
7. All Orders granting a motion to compel fingerprints or DNA samples shall be e-served upon the State Attorney's Office, Defense Counsel, and the investigating law enforcement agency that will be responsible for collecting the Defendant's fingerprints or DNA sample. Each law enforcement agency in Marion County shall provide to the State Attorney's Office an e-mail address to which the Order can be e-served. The State Attorney's Office shall include that e-mail address in the Certificate of Service section of any Orders to Compel that it submits to the Court.
8. Any other Motion to Compel filed pursuant to Fla. R. Crim. P. 3.220(c)(1) shall be heard by the judge presiding over the criminal case in which it is filed.

DONE AND ORDERED in chambers at Ocala, Marion County, Florida, on October 23rd, 2023.



LISA HERNDON

Administrative Judge for Marion County

Distribution List

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