

**JUDICIAL PRACTICE PREFERENCES
CRIMINAL SECTIONS**

THE HONORABLE BRETT J. SZEMATOWICZ

DISCOVERY ISSUES

Opposing counsel must confer and make a good faith attempt to resolve discovery matters without a hearing. If a hearing is necessary, it should be scheduled either in open court with opposing counsel present or with the Judicial Assistant and prior agreement of opposing counsel. Any amended charging document, witness list, or evidence list filed within seven (7) days of the date of trial shall require prior authorization of the Court.

PRETRIAL CONFERENCE

Sign-Up List: As a courtesy to attorneys who appear in multiple divisions, attorneys not assigned to the division may sign up in court, prior to the start of the court session. E-mailed submissions asking to be placed on a sign-up list will not be accepted. If an attorney is not present when their case is called, the Court will continue down the sign-in list and call that attorney's case when they return to the courtroom. Attorneys assigned to the division should be prepared to discuss their cases at the beginning of the court session and will be allowed to call their cases if there are no other attorneys ready.

Defendant's Presence: The Defendant's presence at a pretrial conference may be waived pursuant to Florida Rules of Criminal Procedure 3.180. The Defendant must be present if required by Court, regardless of any previous waiver. The Defendant's presence should not be waived if counsel has not had an opportunity to discuss the case with them. The Defendant's presence may not be waived if speedy trial has not or will not be waived and the case will be set for a trial.

Plea Negotiations: Plea negotiations may be made between the Defendant and the State in advance of or at the pretrial conference. A Defendant may make offers to the Court but the Court will not engage in plea negotiations unless specifically invited to do so by the Defendant. Any plea offers should be placed on the record.

Continuances: Attorneys may file a written motion and order to continue a pretrial conference no later than noon on the Friday of the week prior to any pretrial conference. Motions must fully set forth grounds necessitating the continuance, contain a waiver of speedy trial, and must be with the consent of opposing counsel. Oral motions are acceptable and will be considered in open during the pretrial conference. Oral motions will also be accepted in open court prior to the pretrial conference as long as opposing counsel present and the clerk is made aware in advance.

Zoom: Attorneys will be allowed to appear via Zoom for only the first two (2) pre-trial conferences.

Pleas in Absentia: Pleas in absentia shall be provided with a notarized signature and fingerprints with prior approval of the State as to all conditions. If the parties do not have an agreed upon disposition, please notify the Court prior to preparing a plea in absentia so that any sentencing issues may be addressed.

Miscellaneous Issues: The Court will not discuss any aspect of a case, except scheduling matters, unless counsel for both the State and Defendant are present.

PRETRIAL MOTIONS

Filing of Motions: Attorneys must provide the Court with a courtesy copy of any motion filed through the E-Portal. Courtesy copies may be provided by fax, e-mail, or in open court. Absent good cause, all pretrial motions (motions to modify conditions of pretrial release (removal of CAM)), motions to dismiss, motions to suppress, motions in limine, pretrial evidentiary matters, etc. must be filed at least two (2) days before the calendar call. Absent good cause, motions filed on the day of or after the calendar call will not be considered timely.

Scheduling of Hearings: *Ore tenus* motions will be considered, when appropriate, with consent of opposing counsel. Hearings for motions to suppress will not be scheduled without a written motion being filed and copies provided to the Court and the State. If a motion has not been heard prior to the calendar call, attorneys will be prepared to litigate any remaining issues on the day of the calendar call unless good cause shown. Absent good cause, no substantive motions will be heard after the calendar call.

Continuances: Motions to continue a motion hearing must be made as soon as practicable after an attorney becomes aware of the need for a continuance.

Defendant's Presence: Absent prior Court approval and good cause, the Defendant must be present for all motion hearings. Cases will also be set for a pretrial conference at the same time as substantive motion hearings. If a ruling is made at the time of the motion hearing, attorneys should be prepared to discuss the case and the Defendant should be prepared to resolve the case or set it for trial.

Change of Plea Hearings: Hearings for a change of plea should only be set if the attorney has spoken with their client in advance and has a good faith basis to believe that the Defendant wishes to change his or her plea.

In-Custody Hearings: Due to the high volume of cases in the division, in-custody changes of plea for cases not in VOP status will only be heard on the days reflected in the Court's calendar (attached below). In-custody changes of plea for violations of probation will be heard on Monday mornings.

TRIALS

Motions to Continue: Absent good cause, motions to continue a trial must be filed in writing, at least one (1) week prior to the calendar call. A motion to continue a trial will be heard as soon as practicable.

Calendar Call: A calendar call will be held on the Friday before the week of trial. If court is closed that day, the calendar call will be held sometime during the week preceding the trial. Unless specifically waived by the Court in advance, the Defendant must appear at the calendar call. A Defendant's failure to appear at the calendar without good cause shall result in a capias being issued and the case being removed from the trial calendar. At the calendar call, counsel for the State and Defendant will either announce their readiness for trial or the Defendant will enter a plea. All plea offers will be stated on the record and in the presence of the Defendant. Absent good cause, the calendar call will be the last opportunity for a Defendant to enter a plea. A Defendant who enters a plea during the calendar call may set off sentencing to the day of his or her trial if legally permissible. Absent unforeseen circumstances that arise after the calendar call, no pretrial motions, including motions to continue, will be considered after the calendar call.

Motions in Limine: Motions in limine will be argued during the calendar call on the Friday before the week of trial. All motions in limine must be filed with the court no later than two (2) days before calendar call – this deadline will typically fall on a Wednesday. When filed, a copy of the parties' motions in limine shall be provided via email to opposing counsel and the Judicial Assistant.

Day of Trial: Defendants will be sentenced at the time of their plea or after a guilty verdict at the conclusion of the trial.

Voir Dire: The Court will initiate voir dire. Attorneys for the State and Defendant will be given a reasonable amount of time to inquire of the venire. The Court may place reasonable time constraints on voir dire, depending upon the complexity of the case. Attorneys will not attempt to taint a venire. If the parties consent, challenges for cause may be made at the bench during voir dire. Any member of the venire released for cause will not be excused until the end of voir dire or at an appropriate break in the proceedings. Attorneys shall not ask those members of the venire excused for cause any further questions during voir dire.

Jury: Attorneys and the Defendant should remain standing when the jury enters/exits courtroom.

Objections: No speaking objections should be made at trial. An attorney making an objection should stand and state the legal basis of an objection only. The Court will determine if it is necessary for further discussion or argument at the bench, however the attorneys may ask to approach. Attorneys should at all times address arguments and comments to the Court, not to each other.

Conduct of Trial: Attorneys shall have the clerk pre-mark any exhibits to be introduced at trial. Attorneys will show exhibits to opposing counsel before approaching a witness. Attorneys should request permission to approach the bench, witnesses, or the clerk.

| | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY |
|----------|---|---|---|---|--|
| 8:30 AM | Arraignments Motions VOP Motions VOP Arn | Motions / Pretrials / Jury Trials | Motions / Pretrials / Jury Trials | Motions / Pretrials / Jury Trials | |
| 9:00 AM | | | In-Custody Hearings (Quarantine) | | Motions / Pretrials / Trial Calendar Call |
| 9:30AM | VOP Pretrials | | | | |
| 10:00 AM | | | | | In-Custody Hearings (COP ONLY) |
| 10:30AM | Evidentiary Hearings | | | | |
| 1:30 PM | Motions / Pretrials | | | | Long Motions / NJT |
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