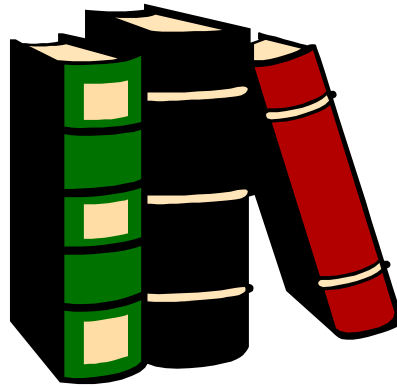


**EIGHTEENTH JUDICIAL CIRCUIT
BREVARD COUNTY
JUDGE BALLOU FELONY DIVISION P**



POLICIES AND PROCEDURES

Judge Tesha Scolaro Ballou/Circuit Court Criminal Division P
Judicial Assistant: Collette Colegrove: collette.colegrove@flcourts18.org

01/19/2023

POLICIES AND PROCEDURES

HEARINGS PROCEDURE:

- All motions must be e-filed prior to requesting hearing time from the Judicial Assistant. Additionally, the parties are required to consult and attempt to resolve the matter without judicial intervention prior to filing motions. Plea offers shall be extended prior to a request for an evidentiary hearing.
- If a matter is proceeding to hearing, please be advised that hearings are limited to the amount of time reserved, therefore the moving party shall confer with opposing counsel and agree to the total amount of time required before requesting a hearing date from the Judicial Assistant. Once the motion has been filed, and the parties have conferred as to the time needed for the hearing, please contact the Judicial Assistant via email, with a copy of the motion, for available hearing dates and times.
- Be sure to copy opposing counsel and/or administrative support staff to avoid delay in procuring hearing time.
- Once the Judicial Assistant confirms a date and time, a Notice of Hearing shall be filed with the Clerk of the Court, and sent via email to the Judicial Assistant, within 48 hours by the moving party. The Notice of Hearing shall include the type of hearing and the scheduled amount of time for the hearing. If a Notice of Hearing is not filed with the Clerk of the Court and provided to the Judicial Assistant within that time frame, the hearing time will be released, and a new request for hearing time will be necessary.
- *Requests for motion hearing time of **more than one hour** will be scheduled for a status hearing prior to hearing dates and times being provided. Counsel shall appear in-person for the Status Hearing.*

- *Hearing times will be provided to counsel at the Status Hearing and counsel shall confirm the agreed upon date with the Judicial Assistant within 48 hours of the Status Hearing if the matter is not set during the Status Hearing. If the parties need additional time to confer as to the agreed upon date, please contact the Judicial Assistant. Once the hearing is set, no further pleadings pertaining to that motion will be heard. If a party determines there is a need to amend a motion that has been set for hearing, the Party shall request leave of Court to amend the motion.*
- If a scheduled hearing is being cancelled, you must email the Judicial Assistant the Notice of Cancellation at least 48 hours prior to the scheduled hearing date. If you need a new hearing date and time, please make that request when emailing the Notice of Cancellation and the Judicial Assistant will provide available dates and time. A hearing not cancelled within this time period will remain scheduled and the parties shall appear to address the cancellation.
- All hearings scheduled for 30 minutes or more will be held in-person. If a MICROSOFT TEAMS link is required for any witness, expert testimony, or for victim input, an emailed request must be sent to the Judicial Assistant no less than 24 hours in advance of the hearing date. If an attorney would like to appear via MICROSOFT TEAMS for hearings scheduled for less than 30 minutes, an emailed request must be sent to the Judicial Assistant no less than 24 hours in advance of the date of the hearing. The Judicial Assistant will email a TEAMS link before the scheduled hearing. If a party has not requested a TEAMS link to appear for a remote hearing, the party will not be admitted into the hearing via TEAMS. ***Please note that if your request to appear virtually is granted, you must appear in an office or home/office setting.
 - A hearing conducted via Microsoft Teams is a formal court proceeding. All parties shall conform with the rules of courtroom decorum and conduct

themselves as if they are appearing in-person in a courtroom. There should not be background noise, distractions, drinking, eating, driving, or unauthorized participants during the hearing.

DOCKET SOUNDING AND CALENDAR CALL PROCEDURE:

- Docket Sounding and Calendar Call will be conducted via MICROSOFT TEAMS (video or phone appearance) until further notice.
- The Judicial Assistant will contact you via email to determine which method you will utilize video vs. audio/phone.
- If counsel is appearing via audio/phone, you must provide the Judicial Assistant with your phone number so the Judge can identify you at your scheduled time. Once that information has been received, you will be sent an email which will include your appearance time and the TEAMS link and call-in number.
- Counsel is to initiate contact. A Defendant's appearance is waived if represented by counsel, unless previously ordered to appear by the Court.
- If you are seeking to continue your case, all motions must include the position of the opposing party and be filed with the Clerk and emailed to the Judicial Assistant, no less than 48 hours in advance of Docket Sounding and Calendar Call. The motion must reflect if it is a one or two docket continuance request, and the order must reflect the requested reschedule date that is agreed upon by the parties. If unsure of the date, counsel should call the Judicial Assistant who will provide the appropriate date.

**Please note, motions filed after the 48 hour deadline, may not be addressed by the Court and you will be required to appear.

- Any offers by the State shall be provided to opposing counsel prior to Calendar Call. Counsel for both parties should be prepared to advise the court of the pending offer.

VIOLATIONS OF PROBATION

- Violation of Probation Arraignments and Hearings are in-person hearings. No Microsoft Teams appearances will be granted absent extraordinary circumstances.
- If you are seeking to continue the VOP arraignment or hearing, all motions must include the position of the opposing party and be filed with the Clerk and emailed to the Judicial Assistant, no less than 48 hours in advance. The motion must reflect the time period sought to further prepare the matter and the order reflect the requested reschedule date that is agreed upon by the parties. If unsure of the date, counsel should call the Judicial Assistant who will provide the appropriate date.

**Please note, motions filed after the 48 hour deadline, may not be addressed by the Court and you will be required to appear in-person and may be required to go forward as scheduled.

ORDERS TO APPROVE COSTS/JAC:

- Please email a copy of the motion to the Judicial Assistant after it has been e-filed and processed, including JAC'S response, any other necessary attachments, along with a proposed order in Word Format.
- Include the hours and/or payment amounts in the Order where needed. If required information is missing, the Judicial Assistant will follow up with a request and the signing of the order may be delayed until all requested information is received.

ORDERS ON MOTIONS TO APPOINT EXPERT TO DETERMINE COMPETENCY/ORDERS

FINDING DEFENDANT COMPETENT/INCOMPETENT:

- Please email a copy of your motion along with a proposed order in Word Format, to the Judicial Assistant, and copy opposing counsel.

- Be sure to complete the proposed order, including the desired Mental Health Expert that will conduct the evaluation, and the doctor's email address, before submitting to the Judicial Assistant.
- The Court will include the competency evaluation due date and the next hearing date when the order is signed.
- Once the Court determines a defendant is competent or incompetent to proceed, counsel for the Defendant shall submit an Order to the Court outlining the findings at the hearing and determination(s) of the Court. The Order should include: the date the expert was appointed, the date of the interview, the date of the expert report, the condition (specific mental illness or intellectual disability incompetent only), the findings as to each statutory factor, if restorable (incompetent only), services for restoration (incompetent only), next hearing type and date. The Court will not take any further action on a case that does not have an order finding the Defendant competent or restored to competency. If the Defendant is found incompetent and an order is not submitted, the case may be returned to the trial division.

MISCELLANEOUS ORDERS TO THE COURT:

- Please email all orders related to unopposed/stipulated motions to the Judicial Assistant in Word Format, along with a copy of the motion and any necessary attachments. The position of the opposing counsel must be noted in the motion and reflected in the proposed order.

TRIALS

- Trial Call dates will be provided to the parties at Calendar Call.
- Defendants are required to appear in-person for Trial Call dates. The client's appearance shall not be waived by counsel without prior leave from the Court.

- Witnesses and Defendants shall be available for the entire trial period if the parties have announced at Calendar Call that they are ready for trial.
- Once the Parties announce they are ready for trial, no further motions, including but not limited to motions to dismiss, motions to suppress, child hearsay, will be entertained by the Court absent extraordinary circumstances.
- The parties will be provided with a deadline for the filing of motions in limine prior to trial.
- A draft copy of the jury instructions shall be provided to the Court prior to the commencement of the trial.
- Counsel who is hired for a matter that is set for trial assumes the case in its current posture. Therefore, counsel should be ready to proceed to trial as scheduled.

COURTROOM DECORUM

- *The parties shall comply with Administrative Order 09-06 Courtroom Decorum and Procedure for all proceedings.*
- If appearing via MICROSOFT TEAMS, you must appear in an office or home/office setting.
- A hearing conducted via Microsoft Teams is a formal court proceeding. All parties shall conform with the rules of courtroom decorum and conduct themselves as if they are appearing in-person in a courtroom. There should not be background noise, distractions, drinking, eating, driving, or unauthorized participants during the hearing.