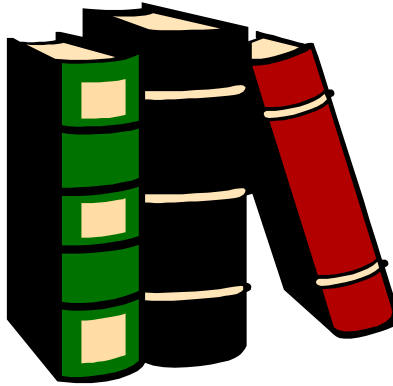


**EIGHTEENTH JUDICIAL CIRCUIT  
SEMINOLE COUNTY  
CRIMINAL - DIVISION M**



**ADMINISTRATIVE  
POLICIES AND PROCEDURES  
GUIDELINES**

**JUDGE DONNA M. GOERNER**

SEMINOLE COUNTY JUVENILE JUSTICE CENTER

190 ESLINGER WAY

SANFORD, FLORIDA 32773

(407) 665-4996

JUDICIAL ASSISTANT: DAWN STALLWORTH

[DAWN.STALLWORTH@FLCOURTS18.ORG](mailto:DAWN.STALLWORTH@FLCOURTS18.ORG)

Division M

JANUARY 2024

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# COURTROOM DECORUM

## **ALL PARTIES AND COUNSEL SHALL EXERCISE PROPER COURTROOM DECORUM WHILE IN COURT**

- Shorts, tank or halter tops, undershirts, sunglasses, and hats are prohibited.
- The use of cell phones and/or pagers in the courtroom is prohibited unless you are an attorney or court personnel. All court personnel must exercise proper decorum should the need to use a cell phone arise and such use shall not interfere with a courtroom proceeding.
- The Judges have the authority to ban persons not appropriately dressed from participating in the proceedings.
- The Judge has the authority to hold you in contempt of court or expel anyone from the courtroom who hinders the orderly conduct of business.
- **All parties and counsel should read and familiarize themselves with Administrative Order 09-06, Supersedes 92-116** regarding Courtroom Decorum and Procedure: <http://www.brevardclerk.us/cache/files/0/3/0309ec7d-4b2b-4771-be51-42c5a69505e9/17CAA9D25C7C325506910EF3B8DE8F1C.09-06-click-here-.pdf>

## HEARINGS

**1. SCHEDULING: Hearings must be scheduled through JACS.** All parties are required to give a good faith assessment of the time needed for a hearing. If more than 15 minutes is needed for a hearing, counsel must contact the JA to request and confirm the additional time. Motions to be heard must be filed and docketed in the court file before requesting hearing time on the motion. The court will not address motions that are not filed in the court file. The court may address certain ore tenus motions and will consider such requests on a case by case basis. A Notice of Hearing must be filed and docketed in the court file and a copy of the Notice of Hearing must be provided to the Judicial Assistant. Failure to provide a copy of the Notice of Hearing to the Judicial Assistant may result in the matter being removed from the docket and not being addressed by the court. My Judicial Assistant may be contacted by email at: ([Dawn.Stallworth@flcourts18.org](mailto:Dawn.Stallworth@flcourts18.org)).

**Coordinating:** Reasonable attempts must be made to clear a date with opposing counsel and all parties before scheduling a hearing. Several attempts to coordinate made on the same day are insufficient. **DO NOT** contact the JA to determine what a reasonable attempt is, or how much time is reasonable. This must be determined by the attorneys.

**Pro Se Parties Only:** If a party is *pro se* and a telephone number is listed on any of their pleadings, the moving attorney **must make two attempts on two different days to coordinate hearings**. A message must be left on both days requesting them to call your office by the end of that business day to coordinate the hearing. If, at the end of the second business day, you do not receive a response, then you may set a hearing unilaterally at least ten (10) calendar days from that date. If

there is no phone number or email address for the pro se party listed in the Court file, then a hearing cannot be scheduled sooner than twenty (20) calendar days out to allow sufficient time for notice.

Pro se litigants attempting to schedule hearings must attempt to coordinate hearing dates and time with the State. The court may schedule the hearing on its own in some instances and will issue a Notice of Hearing in those situations.

**Courtroom:** Judge Goerner holds most hearings in **Courtroom 5-D at the Criminal Justice Center, 101 Eslinger Way, Sanford, Florida 32773.**

**Arraignments are held in Courtroom 1-A at the Criminal Justice Center for persons who are out of custody. In custody arraignments are held at the Seminole County Jail, Courtroom J-1 at 9:00 a.m.**

**Docket Sounding is held in Courtroom 5-D at the Criminal Justice Center for persons who are out of custody.** In custody defendants may be addressed at the Seminole County Jail, Courtroom J-1 at 1:30 p.m. or may be addressed at 9:00 a.m. in Courtroom 5-D at the attorney's discretion. *It is not necessary to notify the court in advance whether counsel will address the in custody defendant in the morning or afternoon.*

**2. CANCELLING:** Only the party who scheduled a hearing may cancel the hearing. IF A HEARING IS CONTINUED OR CANCELLED, IT IS THE RESPONSIBILITY OF THE SCHEDULING ATTORNEY TO FILE A NOTICE OF CANCELLATION AND TO PROVIDE THE JUDICIAL ASSISTANT WITH A COPY OF THE NOTICE OF CANCELLATION OR AMENDED NOTICE OF HEARING AND TO REMOVE THE HEARING FROM JACS OR CONTACT THE JUDICIAL ASSISTANT TO ENSURE THAT THE HEARING IS REMOVED FROM THE COURT'S DOCKET. THE HEARING SHOULD BE CANCELLED NO LATER THAN FIVE (5) BUSINESS DAYS BEFORE THE SCHEDULED DATE SO THAT THE TIME MAY BE AVAILABLE FOR OTHER ATTORNEYS.

**Note: If the hearing was scheduled at the court's request, it may NOT be cancelled, and all parties must appear.**

**3. NOTICE OF HEARING:** A Notice of Hearing must specifically state the matter(s) to be heard; the date, time and place of the hearing; the amount of time reserved; and shall be e-filed with the Clerk. Any party scheduling a hearing shall provide notice to all other parties and a copy to the Judicial Assistant. **Failure to provide a copy of the Notice of Hearing to the Judicial Assistant may result in the matter being removed from the docket and not being addressed by the court.**

**4. VIRTUAL APPEARANCES:** Virtual appearances at hearings is permitted on a case- by-case basis and will generally be permitted for short matters (15 minutes or less). This does not include

Docket Sounding. (*See Docket Sounding Procedures*). You must e-file a Motion to Appear telephonically as well as a proposed Order **at least (five) 5 business days prior to the scheduled hearing. The proposed Order must state the date and time of the hearing, the name of the party appearing virtually.** Proposed Orders must be sent to the court using the e-portal. Good cause must be presented in the motion. In the event, virtual appearance is allowed, the court uses Microsoft Teams. Once the court has signed the Order permitting appearance by Microsoft Teams, the requesting party must provide a valid email address to the judicial assistant **within twenty-four (24) hours of the Order** and coordinate with the judicial assistant to make sure that Teams is set up for the court proceeding. Any party appearing virtually should be prepared to be on stand-by for up to one hour **from** the time the hearing is set, as the court is likely addressing other hearings.

**5. ARRAIGNMENTS:** Fla. R. Crim. P. 3.160 applies and will be followed by the Court. Defendants' appearances may be waived for arraignment pursuant to Fla. R. Crim. P. 3.180(a)(3) EXCEPT when represented by the Office of the Public Defender or other court appointed counsel AND the Clerk of Court has determined that the Defendant does not qualify for court appointed counsel. If such a determination has been made by the Clerk of court, the Defendant shall appear for arraignment so that the court may conduct a review of the Affidavit of Indigency and the Clerk's finding of not indigent.

**6. DOCKET SOUNDING PROCEDURES:**

- Motions to Continue

If counsel is requesting a continuance and there is not an objection from the State, Counsel may file a written Motion to Continue and submit a proposed Order through the eportal to the Court. The motion must include the State's position. If unable to obtain the State's position, the motion must indicate such. Such motions and proposed Orders must be filed at least three (3) business days prior to the scheduled court date. **Submissions made untimely may not be addressed by the court and the attorney must appear for Docket Sounding if they have not received an Order granting the motion to continue prior to the scheduled hearing date.**

Intervening Hearings

If a bond hearing or other hearing is scheduled the same week as Docket Sounding, counsel may file a motion to continue docket sounding and include the hearing date and time and submit a proposed order to the court via the eportal. In these cases, the court will address the Docket Sounding at the time of the hearing and counsel may be excused from attending Docket Sounding.

- Waiver Of Appearance of Defendant

Attorneys may Waive the Defendant's appearance in accordance with Fla. R. crim. P. 3.180(a)(3).

- Failure to Appear - by Defendant

If a Defendant whose appearance has not been waived in accordance with Fla. R. Crim. P. 3.180(a)(3) fails to appear for Docket Sounding, a warrant for his or her arrest may be issued. If a warrant is issued, the Defendant may appear before the court the day following docket sounding or no later than the close of docketed hearings on the second day following docket sounding. Upon a showing of good cause why he or she should not be arrested for failing to appear, the court will recall the warrant.

- Failure to Appear – by Attorney

If an attorney fails to appear for Docket Sounding and fails to procure adequate coverage by a licensed member of the Florida Bar in good standing, the case will be set for trial scheduling. The attorney AND Defendant MUST appear for trial scheduling. Waivers of appearance will not be permitted in these circumstances.

- Pleas

The court does not take pleas at Docket Sounding. All pleas should be scheduled through JACS. The court will also accept pleas at Trial Scheduling.

**7. TRIAL SCHEDULING DOCKET:** All parties are required to attend trial scheduling. Waivers of the Defendant's appearance is NOT permitted. Cases should be set on the Trial Scheduling Docket for purposes of a plea or trial. The Court may require that a case be scheduled for Trial Scheduling to ensure that counsel has complied with a previous directive issued by the court.

**8. TRIALS:** When announcing ready for trial, all parties should be prepared for trial. All evidentiary motions must have been addressed prior to setting cases for trial. Motions in Limine must be addressed prior to setting cases for trial. The court does not accept negotiated pleas at jury selection or during trials unless there is an extenuating circumstance that warrants the acceptance of a negotiated plea.

**9. SENTENCINGS:** Counsel is responsible for reading and applying all applicable statutes, rules and laws of this state concerning sentencing hearings, including but not limited to Fla. R. Crim. P. 3.701, 3.720 and Fla. Stat. 921.0026. When requesting a downward departure, counsel shall be prepared to reference the statutory and/or non-statutory basis for the request and shall provide admissible evidence in support of the request.

Defendants who fail to appear for sentencing, who are late for sentencing, or who violate the terms and conditions of release pending sentencing may not be permitted to withdraw his or her plea and will be subject to the maximum sentence allowed by law.

**10. VIOLATION OF PROBATION/ORDERS TO APPEAR PROCEDURES:** The Court has Violation of Probation Arraignment Dockets and Violation of Probation Trial Dockets. All parties must appear. Waivers of Arraignment for Violation of Probation are not permitted. Cases

are expected to be resolved by plea or continued pending resolution from the Violation of Probation Arraignment Docket. When set on the Violation of Probation Trial Docket, cases are expected to be resolved by trial or plea. Continuances from a Violation of Probation Trial Docket will be considered on a case-by-case basis.

**11. COMPETENCY DOCKET:** Attorneys shall comply with all applicable laws and rules of this state concerning competency matters. Proposed Orders on Motions to Determine Competency shall be submitted to the court via the eportal within five (5) calendar days of filing the motion. All parties must be present for all competency hearings and competency status hearings unless excused by the court. Waivers of the Defendant's appearance is not permitted.

Persons housed in the state hospital need not be present for competency status hearings unless the person has been returned from the state hospital after being restored to competency and the hearing is set by the court as required by law.

**12. MATTERS NOT REQUIRING A HEARING:** Some matters do not require a hearing and a proposed Order may be submitted through the e-portal in Word format along with a separately filed cover letter indicating no objection to the proposed Order; and/or with a properly filed Stipulation. The Motion shall also indicate that all interested parties have been contacted and their position must be indicated in the motion. A statement indicating "no position," without further explanation is insufficient and will need to be set for a hearing. For any Motion, including motions where the parties agree, the Court may enter an Order, or may require hearing, as is the discretion of the Court. Examples of matters not requiring hearing:

- Motions to Withdraw as Counsel when filed by The Office of the Public Defender or The Office of Civil Regional and Criminal Conflict Counsel when the motion is based upon a conflict of interest due to the representation of a co-Defendant, Witness, or Victim.
- Motion for Substitution of Counsel (Signed by Attorneys **and** the Defendant) and in compliance with Fla. R. Jud. Admin. 2.505(e)(2)

**13. EMERGENCY HEARINGS:** If you feel that your motion is an emergency and you need the Judge to stop what she is doing to hold a hearing within 24 hours, please contact the JA via email ([Dawn.Stallworth@flcourts18.org](mailto:Dawn.Stallworth@flcourts18.org)) and attach the Emergency Motion for the Judge to review and determine.

**14. HEARING MATERIALS:** Should you wish for Judge Goerner to review materials or case law prior to a hearing, please submit via email to the judicial assistant **at least five (5) business days prior to your hearing. Please provide the case name and number in the subject line of your email and advise the JA to forward the email to the Judge. DO NOT PROVIDE THE COURT WITH A COPY OF PLEADINGS THAT HAVE BEEN DOCKETED IN THE COURT FILE. Failure to follow these procedures may result in a significant delay in the court's ruling and issuance of an Order in the case.**

## MOTIONS

**GENERALLY:** Motions shall be filed and served in compliance with all applicable rules and laws of this State. The Motion must contain the opposing party's position unless it is an adversarial motion that requires a hearing (i.e. bond, suppression, dismissal). Motions that require a hearing must be scheduled for a hearing within twenty (20) days of filing said motion. This is not a requirement that the motion be heard within twenty (20) days.

**MOTION TO WITHDRAW AS COUNSEL/JOINT STIPULATION FOR SUBSTITUTION OF COUNSEL:** Fla. R. Jud. Admin. 2.505(e)(3) (amended December 21, 2023) applies and must be followed. If the attorney can obtain a **signed consent** from their client, then the proposed Order may be submitted through the e-portal in Word format. If the attorney is unable to obtain a signed consent from their client, the motion must be set for hearing with at least 5 days' notice to the parties. Counsel must ensure that the motion and Notice of Hearing has a Certificate of Service that indicates that they were served on the client. The proposed Order allowing withdrawal of counsel must reflect the following:

- The client's name, last known address, telephone number, and, if possible, e-mail address;
- A statement that all pleadings are to be furnished to the client;
- A statement that the client is responsible for notifying the Clerk of Court, in writing, within 5 days of any change of address.
- If new counsel has been retained by the client, then all information must be sent to the new attorney and their information must be included in your proposed Order allowing withdrawal.

*This section does not apply to The Office of the Public Defender or The Office of Civil Regional and Criminal Conflict Counsel when the motion to withdraw is for reasons indicated under "Matters Not Requiring a Hearing."*

**MOTIONS IN LIMINE and PRE-TRIAL MOTIONS:** All Motions *in Limine* and Pre Trial Motions *must be scheduled for hearing and heard prior to the trial date.*

**MOTIONS FOR EARLY TERMINATION OF PROBATION/COMMUNITY CONTROL:** Motions for Early Termination of Probation or Community Control must be filed with the Clerk of Court with copies to the State. The Motion must include verification from the probation or community control officer that all terms and conditions of supervision have been satisfied, including costs, fines, fees and restitution. The Motion must also include the State's position. The Court will not consider a Motion for Early Termination of Supervision if all terms, conditions, costs, fines, fees, and restitution have not been satisfied. The court cannot consider motions for Early Termination of Probation or Community Control submitted by pro se litigants when these procedures have not been followed because the court may not engage in ex parte communications with a party.



**POST-CONVICITON MOTIONS:** All applicable rules and laws of this State must be followed when filing post-conviction motions. This includes service of said motions to the court. The mere filing of a post-conviction motion via the eportal does not satisfy the service of that motion upon the court. Such motions must be emailed to the judicial assistant for the judge to review.

### **PRO SE DEFENDANTS**

Pro se Defendants are responsible for abiding by all applicable laws and rules of this State including the court's procedures. The court may not engage in ex parte communications with a party. Copies of any requests, letters, and motions must be served to the State. If the request, letter, or motion requires the court to rule, the State's position must be included in the request, letter, or motion. *See* Motion for Early Termination of Probation/Community Control. Failure to include the State's position may result in a denial of the request, letter, or motion. The court may otherwise require a hearing.

### **ORDERS**

**PROPOSED ORDERS:** All proposed Orders must be submitted through the e-portal main page in Word format as a "Proposed Order" (i.e. NOT as a "Pleading on Existing Case), and should be accompanied by a separately filed cover letter (if necessary, stating that opposing parties have reviewed the proposed Order and they have no objection to the form or content of the Order.) If the parties cannot agree, please schedule a hearing. **Do not ask opposing parties to contact the Judge's office with objections to a proposed Order.** If opposing parties have been forwarded a copy of the proposed Order, but have not responded within a reasonable time frame, you may state so in your cover letter **if the motion was already heard before the Court.** If the matter has not been heard by the Court, and you have not received a response from opposing parties, then it must be set for a hearing. You may submit proposed Orders to the court via the e-portal twenty-four (24) hours prior to your hearing. **If the corresponding motion / petition to your proposed Order is not yet docketed in the Clerk's system, do not submit your proposed Order. It will be rejected. DO NOT SUBMIT DUPLICATE ORDERS TO THE COURT UNLESS SPECIFICALLY DIRECTED TO DO SO BY THE COURT.** While the court typically addresses proposed orders within 7 – 10 days, it may sometimes take up to 30 days for the court to address a proposed order. This is especially true of the court if the court has had a lengthy trial, lengthy hearing days, is attending a judicial conference, etc. If you have not received a response by the 30<sup>th</sup> day, you should contact the Judicial Assistant to inquire about the status of your proposed order.

#### **Language contained in proposed Orders:**

1. Do not indicate that the Order was the product of a hearing if there is not a hearing on the matter to be heard.

2. The proposed Order must specifically indicate that it is an Order on .... and state the actual title of the motion that was filed and heard.
3. Watch the number of “herebys” contained in the proposed Order. Do not say that it is hereby Ordered and Adjudged that the Motion is hereby Granted/Denied. Do not use excessive leagalease.

IT IS NOT NECESSARY TO FOLLOW UP WITH AN EMAIL TO THE JUDICIAL ASSISTANT WITH “COURTESY COPIES” OF A PROPOSED ORDER, OR TO NOTIFY THE JUDICIAL ASSISTANT THAT A PROPOSED ORDER WAS E-FILED.

**REJECTIONS:** The court will generally provide the reason why a proposed Order was rejected. Please make all necessary corrections and resubmit the proposed order. Please be mindful that some corrections may be directed to the pleading in the court file while others may pertain to the proposed Order. Attorneys and their assistants are expected to read the reason for the rejection and to make any necessary corrections before resubmitting proposed orders to the court. **Do not resubmit proposed orders to the court after receiving a rejection before curing any defect(s) indicated in the rejection. Do not contact the court to request legal advice. The court cannot provide legal advice.**

**FORMATTING:** Additionally, all proposed Orders must be in Word with Times New Roman, Arial, or Bookman Old Style, 12-point font, and one (1) inch margins. Headers and footers shall be set at .5. At least three (3) inches shall be left at the bottom of the Order for the Judge’s signature. Do not use tables unless the body (substance of the Order requires a table). **The Judge’s signature shall not be on the page alone. The court must be able to edit orders. If the court is unable to adequately edit the proposed order, it will be rejected.**

\*\*\* Please include the following codes for the date and signature line of Orders:

*“DONE AND ORDERED this DDDD in Chambers in Sanford, Seminole County, Florida.”*

**SERVICE OF ORDERS:** The moving party is responsible for providing copies of all Orders to all non-registered parties (meaning all persons that are not registered to receive pleadings via the e-portal). A certificate of mailing said Orders shall be filed with the court no later than 3 days after the Order is signed. DO NOT PRESUME THAT THE CLERK HAS SERVED YOUR ORDER TO AN INTERESTED PARTY OR PARTICIPANT IN A CASE.

DO NOT INDICATE IN THE CERTIFICATE OF SERVICE THAT THE ORDER WAS SERVED BY E-PORTAL. THE CERTIFICATE MUST SPECIFY THE EMAIL ADDRESS SERVED OR THE ADDRESS WHERE THE SERVICE WAS PROVIDED. **THIS ALSO APPLIES TO THE SERVICE OF PLEADINGS IN GENERAL.**

## **MISC.**

- **LANGUAGE INTERPRETERS:** To request and schedule a language interpreter please contact Court Administration at 407-665-4945.
- When contacting the Court (via mail or e-mail), please copy all parties. However, DO NOT include the judicial assistant when coordinating hearings on cases.
- **When emailing the Judicial Assistant, the subject line must include the case number and style of the case.**

*These policies and procedures may be amended from time to time and should be referred to before contacting the Judicial Assistant regarding courtroom policies and procedures.*