

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR OKEECHOBEE COUNTY, FLORIDA

CRIMINAL DIVISION

**ORDER REGARDING EX PARTE AND PRO SE  
LETTERS, PLEADINGS, MOTIONS & NOTICES  
FROM DEFENDANTS**

This order addresses the problem of *ex parte* and *pro se* submissions of letters, pleadings, motions and correspondence from defendants in criminal cases.<sup>1</sup> The court does not encourage the submission of *ex parte/pro se* correspondence or pleadings, and this order is intended to address the problematic nature of these submissions.

***Ex parte Communications***

An *ex parte* communication is a communication from one side only, without notice to the other side (in other words, the motion or letter which does not show or certify that a copy of the letter or motion was served upon or mailed to the State Attorney's Office).<sup>2</sup>

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.

If a defendant (or any party or person) submits an *ex parte* communication, it will be returned, as it *cannot* be read, considered or acted on by the Judge.

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<sup>1</sup> This order applies to *ex parte/pro se* letters, motions and pleadings mailed or delivered to the judge. See, JEAC Opinion 99-19 (August 25, 1999).

<sup>2</sup> Code of Judicial Conduct 3B(7).

***Pro Se Communications from Defendant's Represented by Counsel***

A *pro se* pleading or motion is one which is written and submitted by a defendant, not from an attorney. A defendant is *not* entitled to hybrid representation, that is, if a defendant is represented by an attorney, whether it is a privately hired attorney or the Public Defender, the defendant generally may not file motions or pleadings with the court. Any such pleading or motion is a nullity (having no legal force or effect). *State v. Tate*, 387 So.2d 338 (Fla. 1980); *See also, Logan v. State*, 846 So.2d 472 (Fla. 2003); *Peterson v. State*, 881 So.2d 1129 (Fla. 4<sup>th</sup> DCA 2004)(pleadings filed *pro se* by a defendant who is represented by an attorney is a nullity except for a motion which contains an unequivocal request to discharge counsel).

Defendants must *not* file any *pro se* pleadings or motions, while they are represented by counsel (an attorney), except a motion to discharge counsel. All *pro se* pleadings except a motion to discharge counsel, will be filed with the Clerk of Court and *not* ruled on by the Judge.

DONE AND ORDERED in Okeechobee County, Florida on this 5<sup>th</sup> day of January 2010.

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ROBERT E. BELANGER  
CIRCUIT JUDGE

copies furnished to:

Clerk of the Circuit Court

State Attorney's Office

Public Defender's Office

