

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

CRIMINAL DIVISION

**ORDER REGARDING EX PARTE COMMUNICATIONS, TELEPHONE CALLS AND,  
PLEADINGS, MOTIONS & NOTICES  
FROM FRIENDS, FAMILY OR RELATIVES OF DEFENDANTS**

This order addresses the problem of telephone calls to the Court's Judicial Assistant from friends, family members and relatives of Defendants who have criminal charges pending with the court. In these calls, relatives request (and sometimes demand) that the Judicial Assistant cause something to be done in a case, or to communicate information to the judge *ex parte*. (An *ex parte* communication is a communication from one side only, without notice to the other side. The Code of Judicial Conduct does *not* permit a judge to read or consider *ex parte* communications.)

This also addresses the submission of *ex parte* pleadings, motions and correspondence from non-parties in criminal cases. <sup>1</sup>

There are **only two (2) parties** to a criminal case. The first is the State of Florida. The State is the plaintiff who files criminal charges against the defendant. The second party is the Defendant, who is almost always represented by the Public Defender or a private attorney.

The Office of the State Attorney may file motions and pleadings on behalf of the plaintiff, the State of Florida. The Office of the Public Defender or the defendant's privately hired attorney may file motions and pleadings on behalf of the Defendant. **No other person can file pleadings or motions in the case, or ask that action be taken in a case *via* telephone.**

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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).

Friends, family members, spouses, girlfriends and relatives of the defendant are **not** parties to the litigation. They lack standing to file any legal pleadings or motions in the case.

Even defendants, who are parties in the case, are limited from filing *pro se* motions in their own cases. See, e.g., *Salser v. State*, 582 So.2d 12 (Fla. 5<sup>th</sup> DCA 1991) (court properly refused to consider *pro se* motion to discharge under speedy trial rule since *pro se* motions are invalid where the defendant is represented by an attorney). Again, a defendant's spouse, girlfriend, mother, relative or acquaintance **cannot** file motions in the case.

Again, **friends or family members have no standing to file legal motions.** They have no standing to intervene in a criminal case. Indeed, the filing of **legal motions or pleadings** by lay persons who are not parties to the suit may constitute the **unauthorized practice of law**, which is a Third Degree Felony, prohibited by Florida Statute § 454.23.

It is also recommended that **letters**, such as character references or sentencing recommendation letters, be sent, not to the court, but to the Defendant's attorney. The defendant's attorney will then decide whether the letter should be provided to the court, with a copy to the State.

Again, an ***ex parte*** communication is a communication from one side only, without notice to the other side. 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. ***A person may not simply call the Judge's Office and ask that something be done on a case.*** If something needs to be done in the case, the ***attorneys should be contacted***, to file appropriate motions, which would then be set for hearing in open court with all parties present.

**IF YOU ARE A RELATIVE AND YOU CALL THE JUDGE'S JUDICIAL ASSISTANT, SHE WILL PROVIDE YOU ONLY WITH (1) THE DEFENDANT'S NEXT COURT DATE AND (2) THE NAME OF DEFENDANT'S ATTORNEY, IF ANY. IF YOU ARGUE WITH THE JUDICIAL ASSISTANT OR CONTINUE TO INSIST THAT SHE CAUSE SOMETHING TO BE DONE IN THE CASE, SHE WILL ASK FOR YOUR MAILING ADDRESS AND SEND YOU A COPY OF THIS ORDER.**

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