

IN THE CIRCUIT COURT OF THE 19th JUDICIAL CIRCUIT
IN AND FOR ST. LUCIE COUNTY, FLORIDA

CRIMINAL DIVISION

GENERAL PROCEDURES

This order applies to all felony cases pending in this division.

1. Calendars.

Calendars will be posted on this website. Other than the first cycle (beginning January 4, 2010), there will be three consecutive weeks of trial, followed by two weeks of non-trial proceedings. (NOTE: The first cycle will contain four consecutive trial weeks in order to stagger the docket calls with those scheduled in the other two felony divisions.) The third trial week will be designated as a ten strike week for purposes of obtaining sufficient jurors in the venire. Scheduling of ten strike cases may also be scheduled during the first and/or second weeks of the trial dockets; provided sufficient advance notice is given to the jury clerks to summon enough jurors.

2. Docket Call.

There will be a private attorney Docket Call on Wednesdays and a Public Defender Docket Call on Thursdays. A Public Defender will have to attend the Private Attorney Docket Calls to be available to deal with co-defendants represented by the Public Defender's Office.

- a. Private Attorney Docket. Due to the large number of cases on the trial dockets, and the limited courtroom seating, the clerk will call the docket in a manner which most efficiently empties the courtroom to make seating available for others. Lawyers having only one client on the docket will be called in case number order (oldest first) before cases with lawyers having multiple clients on the docket.

Next, the clerk will call, in no particular order, the cases of each private attorney who has multiple cases on the docket. The clerk will call all cases of the attorneys that she is aware of in case number order (oldest first). Each attorney is responsible to notify the clerk of any client on the docket in which a Notice of Appearance has not yet been filed (or filed too recently to be reflected on the docket).

- b. Public Defender Docket. All cases will be called in case number order (oldest first).
- c. Inmates will not be transported for Docket Calls. All Defendants that are not in custody must appear at Docket Call unless specifically excused by the Court prior to Docket Call. Failure to appear when the case is called will result in the issuance of a Bench Warrant without bond; unless counsel requests and the Court agrees to recall the case at the end of the docket. Counsel will also have to wait until the end of the docket to recall the case.
- d. When a case is called, the Assistant State Attorney and defense attorney must be prepared to advise the court of whether a case is “ready for trial;” needs a continuance; or is ready for change of plea. The Assistant State Attorney and defense attorney shall advise the court of how many previous times the case has been continued; and whether either party has an objection to the continuance. If it is the first docket call for a case, the matter will be continued without question; provided there is a waiver of speedy trial by the defendant. The State and the defense are urged to enter into written stipulations to continue (with a waiver of speedy trial, if applicable) at least five days prior to docket call on any case which

has not been scheduled for docket call more than three times. On the fourth docket call and every docket call thereafter, the State and the defense may not enter into a stipulation to continue the matter; but must be present at docket call to explain the need for a further continuance.

- e. The Assistant State Attorney shall advise the clerk and the court of any co-defendants charged with the defendant whose case is being called. All co-defendants will be called simultaneously.
- f. Defense counsel shall advise the clerk and the court of any additional cases filed against the defendant in this or any other felony division of the 19th Judicial Circuit.
- g. The court will schedule numerous cases for each mini-docket of each trial week. The mini-docket call will be scheduled for 9:00 a.m. on the first day of each trial week. The order that cases are tried will be determined by the court at each mini-docket call.
- h. Do not request second or third week just to have more time. If the case is “ready for trial,” cases will be scheduled for the first week. If all other factors are relatively equal, the oldest cases will be scheduled for trial first; and on the first week of the docket.
- i. The court will accept changes of plea at the conclusion of the docket call; unless and until such time as the number of cases on the docket call make it practical to take changes of plea as each case is called. (That will only happen when changes of plea will not make others wait an inordinate amount of time to get through the entire docket.)

3. Scheduling Trials.

- a. There will be a mini-docket at 9:00 a.m. on the first day of each trial week. The court will set numerous cases for trial on each mini-docket. The order that cases will be tried will be determined by the court at the time of the mini-docket.
- b. After the order of trials is scheduled on the mini-docket, juries will be picked for the first two cases on Monday. The first case will begin at 9:00 a.m. on the second day of the trial week.
- c. Back up trials.
 - i. Any attorneys and defendants who were not scheduled to pick a jury on the first day of the trial docket will be rescheduled as follows:
 1. Cases that can be tried in two days or less will return on Thursday morning at 9:00 for another mini-docket to schedule one trial that will require the selection of a jury and an immediate commencement of that trial (i.e., “pick and go”).
 2. Trials that are scheduled to last more than two days will be rolled over to the next mini-docket call at 9:00 a.m.
 3. Trials that are scheduled to last two days or less that do not begin jury selection on Thursday will also be rolled over to the next mini-docket call at 9:00 a.m.

4. Change of Plea.

- a. The court will take changes of plea on mini-docket call day. Change of plea forms must be filled out and fully executed prior to the commencement of the mini-docket.

- b. Change of plea forms must be fully filled out, explained to the client and executed by all parties prior to the scheduled time of any change of plea. If the change of plea form has not been fully filled out and executed prior to the time when the change of plea has been scheduled, the matter will be stricken from the docket and placed back on the next docket call.
- c. **Inmates scheduled for change of plea will not be transported unless a fully filled out and executed change of plea form has been forwarded to the court by no later than noon on the last business day preceding the date that the defendant intended to enter a change of plea.** No change of plea will be scheduled for an inmate prior to the court receiving a copy of the fully filled out and executed change of plea form. NO EXCEPTIONS.
- d. When filling out the change of plea forms, defense counsel is required to write out the full name of the charge so as to minimize the use of abbreviations unless such abbreviations are so well established that there can be no reasonable suggestion that the defendant did not know what charge or reduced charge he/she was pleading to (i.e., DUI, DWLS-Habitual Offender, PDP, etc.). Defense counsel will also be responsible to accurately reflect the degree of felony/misdemeanor for each charge; as well as the maximum and mandatory minimum penalties for each.

5. Open Pleas to the Court.

Any time a defendant enters an open plea to the court or a plea with a negotiated cap sentence, the court will generally order a pre-sentence investigation (PSI) any time the court determines the need for a defendant's criminal sentencing history.

6. Jury Instructions.

- a. The State shall provide a copy of proposed jury instructions to the court and the defense not later than noon on the day prior to jury deliberations. The defense shall be responsible for providing any proposed jury instruction not included in the jury instructions proposed by the State. Proposed jury verdict forms shall be submitted by the State and the defense no later than the charge conference.
- b. The State and the defense shall email in Word to the Court and Judicial Assistant, a complete set of jury instructions and jury verdict form. To the extent possible, the court's judicial assistant will assist in finalizing the jury instructions and jury verdict form; and providing copies to counsel and the jurors.

DONE AND ORDERED in Fort Pierce, St. Lucie County, Florida, this 28th day of December, 2009.

JAMES W. McCANN
CIRCUIT JUDGE

Copies furnished to:

State Attorney's Office

Public Defender's Office

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