

Dependency Court Procedural Memo

Michael J. Linn, Circuit Judge
Courtroom 7, Indian River County Courthouse
Alicia Mittwede, Judicial Assistant: MittwedeA@circuit19.org
Circuit 19 Website: www.circuit19.org. Click on Judge Linn's page
Juvenile Clerks' Office: (772) 226-3128
E-Service Address for Documents: IRCJudge5@circuit19.org

IN-COURT PROCEDURES:

Everyone will be expected to treat others as they would like to be treated. Disrespectful and discourteous behavior will not be tolerated under any circumstance.

CELL PHONES AND ELECTRONIC DEVICES:

Please keep all cell phones and electronic devices on silent or vibrate. Anyone who violates this rule can have their device confiscated until the close of business.

DRESS CODE:

Anyone present in the courtroom will dress in a manner that shows respect to our Judicial System. Shirts will be tucked in. Pants will be worn at an appropriate height. Dresses will be at an appropriate length. Tops will be modest. No shorts. No tank tops. No hats. No sunglasses. No flip-flops or sliders. Anyone violating this rule will have their case set at the end of the day, be ordered to sit out in the hallway, and will not be allowed to leave the courthouse.

ATTORNEYS:

All attorneys will be expected to conduct themselves in accordance with the Standards of Professionalism outlined in Amended Administrative Order 2015-06.

EVIDENCE AND PROCEDURE:

All exhibits, whether demonstrative or evidentiary, must be pre-marked by the clerk with the appropriate numeric or alpha character in the intended order of introduction at the hearing/trial.

Counsel shall also present all exhibits for objection or stipulation to all other parties before the commencement of any trial or hearing at which they will be utilized.

CLERKS:

Please be respectful of the clerks and allow them to do their job. The court clerks are not the personal support staff for counsel appearing in the division. All attorneys are expected to come to court with sufficient copies for all parties, counsel, and the court. No copies will be made while court is in session. When court is in session, DO NOT approach the clerk without the Court's permission. You are no longer able to file documents in court. All documents must be e-filed prior to the day of the hearing unless there are extraordinary circumstances.

COURT DEPUTIES:

Please be respectful of the court deputies and allow them to do their job. Any directive given by the deputies shall be treated as if it were directed by the Court.

INTERPRETERS:

Counsel shall notify the clerk of the need for an interpreter for any party or witness at least 48 hours in advance of any court proceeding. Should there be a need for any unique language interpreter for a scheduled hearing or trial, counsel shall notify the clerk at least one (1) week prior to the scheduled hearing or trial.

TELEPHONIC APPEARANCES:

Requests for telephonic appearances must be made at least one week BEFORE the scheduled appearance, indicating the agreement of all other counsel and detailing the arrangements that have been made with the Court's J.A. and absent the J.A., the clerk. In general, the Court will make every effort to accommodate any counsel's request to appear telephonically if the requesting counsel provides adequate notice to the Court so the proceedings are not delayed or interrupted.

THE ORDER OF APPEARANCES

The order of appearances for all matters before the Court shall be as follows:

1. Counsel for the State
2. Department Case Manager
3. Child Protective Investigator
4. Department Case Supervisor
5. Adoption/Independent Living Specialist
6. Counsel for the Guardian Ad Litem for the Child(ren)
7. Guardian Ad Litem for the Child(ren)
8. Attorney Ad Litem for the Child(ren)
9. Counsel for the Mother
10. Mother

11. Counsel for the Father
12. Father
13. Other Court Approved Participants

IF ANY OF THE ABOVE ARE NOT PRESENT WHEN THE CASE IS CALLED, THE COURT MAY PASS THAT CASE TO THE END OF THE DOCKET FOR THE DAY OR PROCEED IN THE MATTER WITHOUT THEIR PRESENCE AT THE COURT'S DISCRETION.

PLEADINGS, MOTIONS, ORDERS, REPORTS AND RECOMMENDATIONS OF MAGISTRATE

All motions shall be in writing. Every motion shall: 1) be specifically titled identifying the moving party, the sequence of the motion, and the nature of the motion (e.g. Father Smith's Motion for Change Of Placement); 2) cite the rule(s) of evidence, procedure, or statute that authorizes the motion; 3) detail the case specific facts and circumstances that support the motion; 4) state the specific relief requested; 5) state the amount of time requested for a hearing on the motion, if any; as well as 6) state the position of each party regarding the motion, including any objections and the legal basis therefore. 7) Your motion must contain a certification that a good faith effort has been made to resolve the issue with all parties prior to the filing of your motion. The certification must appear on emergency motions also.

The proponent of any motion shall serve on all other parties a copy of the motion, together with a proposed order on that motion, at least three business days before the hearing on the motion.

All proposed orders and reports and recommendations of Magistrate shall: 1) be specifically titled identifying the moving party, the sequence of the motion, nature of the motion, and whether the order grants or denies the relief sought (e.g. "Order Granting/Denying Father Smith's First/Second Motion to Continue"); 2) state with particularity all considerations required by rule or statute; 3) detail the proposed specific findings of the Court as to each consideration; 4) detail specific relief ordered; 5) indicate whether the relief requested was granted or denied and; 6) not contain any language stating the Court's order was granted or denied over a party's objection.

When submitting a T.P.R. or Manifest Best Interest order, counsel shall include a legible copy of the applicable birth certificate(s) to the Judge.

Submit all proposed orders for Judge Linn via e-mail to IRCJudge5@circuit19.org in WORD format along with a copy of the filed motion (pdf format for motions is acceptable). **Do not send motions and proposed orders as one document.** When submitting multiple documents to the Court, each document must be submitted as a separate document. The document must be named as something searchable, (e.g. *short case #, 15dp120, child's last name and short name of order, e.g. O-Transport, FJ, etc.*) The Court requires e-mail subject lines contain the case number and child(ren)'s last name(s). The service list must clearly state the correct attorneys/parties with an e-service address. It is the responsibility of the moving party to provide orders to any parties without email service addresses.

HEARINGS

Scheduling Hearings: All motions must first be filed through the E-portal. If you are requesting a hearing, please contact the Juvenile Clerk's Office at (772) 226-3128, for the next available hearing date and time.

When requesting a hearing you must accurately estimate the amount of time required for the hearing. This must include the amount of time required for all parties to be heard. When the amount of time requested expires, the hearing will either be continued to another day or be heard at the end of business that day. The Court will determine which is appropriate.

Emergency Motions: If you have a legitimate emergency motion, submit it to the Court via e-mail to IRCJudge5@circuit19.org and MittwedeA@circuit19.org, copying all parties with the e-mail. The subject line of your e-mail should contain the word "EMERGENCY." You must provide a good faith estimate of the amount of time required for the hearing after conferring with all parties. Emergency Travel Motions are not an emergency unless it is to flee a natural disaster or a deadly situation, either of which does not require a court order.

Shelter Petitions: All shelter petitions are to be e-mailed directly to Judge Linn at IRCJudge5@circuit19.org with a copy to Alicia Mittwede, Judicial Assistant, at: MittwedeA@circuit19.org and the clerk of court at: TMcfall@clerk.indian-river.org, Hkennedy@clerk.indian-river.org, JHouse@clerk.indian-river.org, CNblack@clerk.indianriver.org, dbarfield@clerk.indian-river.org, no later than 10:30 a.m. the day of the shelter hearing.

Shelter hearings are normally conducted by the Court at 1:00 p.m. each day, unless otherwise indicated/notified. If a change in the shelter hearing

time/courtroom/Judge is necessary you will be notified by e-mail as it will be posted on the Court's daily dockets.

Reports: It is not necessary to serve the Court with a copy of routine documents that are being filed through the E-Portal. Judge Linn will view them online.

Judicial Review Report Revisions: If a revision is made to a Judicial Review Report, the revision(s) must be handwritten on a copy of the original Judicial Review Report and submitted to the Court for approval during the Judicial Review hearing.

E-mail chains: DO NOT include this office in e-mail chains that do not require action by the Court. An attempt to resolve issues must be made prior to contacting the Court.

PREPARATION OF ORDER or REPORT AND RECOMMENDATIONS OF MAGISTRATE AFTER HEARING OR TRIAL IN COURT

DCF shall be responsible for the preparation of all routine orders after hearing before the Court, including orders after shelter, arraignment, advisory hearing, judicial review, permanency review, closing of the case, etc. The proponent of any non-routine motion, (e.g. change of placement, change in visitation, reunification, travel requests, medical treatment, etc.) shall prepare the proposed order relative to that motion and shall include in it all indicated statutory and rule references, the specific considerations required of the Court, and the specific findings of the Court related thereto. Proposed orders on TPR trials shall be submitted to the Court by both DCF and parent attorney(s).

The attorney preparing the order is certifying, as an officer of the Court, that the proposed order contains all of the specific details and important findings of the Court's/Magistrate's ruling (including deadlines), contains no extraneous matters not specifically addressed by the ruling of the Court, and does not incorporate any other verbiage that does not reflect an accurate recitation of the matters actually presented by the attorneys for consideration in open Court or otherwise required by law.

All such routine orders should generally be submitted before the close of Court each day, and in no event, later than 24 hours following the hearing to which the order is addressed. In no case will the Court allow DCF to submit routine orders days after the actual hearing on the matter that took place.

The attorney responsible for submitting such order shall certify that they have personally proofread any order they submit to the Court for signature and that such order has been reviewed for subject/verb agreement, proper tense, the correct gender references, correct spelling of names of parties and witnesses, correct dates, correct county, correct clerk's office, coherent sentence structure, punctuation, spelling, grammar, contextual cogency and correct service list. This certification shall accompany every order submitted to the Court.

TRANSPORT ORDERS

It is the responsibility of the attorney for an incarcerated parent to submit a transport order to the court in order to have the parent available at mediations, settlement conferences, or at any other non-court function for which they need to be present. The order must be provided to the clerk at least fifteen (15) working days in advance of the mediation/hearing for a parent being housed in a county outside of Indian River County or in DOC facility in this state. (See attached form) For a parent in Indian River County jail, the order must be provided five (5) working days in advance of the scheduled event. Please be mindful of the fact that additional procedures are necessary to have federal inmates transported for court proceedings and counsel shall allow sufficient time for these procedures to be followed. The clerk will arrange transportation of Indian River County jail inmates for trials only.

AMENDMENTS TO THESE PROCEDURES

The Court may, from time to time, on its own initiative, amend these procedures without further notice. All counsel/parties are advised to check www.circuit19.org, click on Judge Linn's page, Juvenile Dependency Procedures for updates before undertaking any case in this division to see if any provisions or conditions have been amended or added to this procedural memo. These procedures include the Magistrate where applicable.

*Amended May 22, 2019

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA**

IN THE INTEREST OF:

CASE NO.:31

_____ /

ORDER TO TRANSPORT

THIS CAUSE came before the Court, in Chambers, and the court finding it necessary to transport the defendant to appear at a hearing on __ (issue to be heard) __, and the Court being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that Deryl Loar, Sheriff of Indian River County or his designated agent shall obtain custody __ (name of inmate) __, DC# _____, DOB: _____, who is presently confined in the __ (facility name) __ or from any DOC facility where he/she may be foundⁱ and transport said person to the Indian River County Jail, Indian River County, Vero Beach, Florida, on or before _____, 20__, where he/she will be housed until transported for his/her court appearance on _____, 20__ at ____ a.m./ p.m. in Courtroom 7, Indian River County Courthouse, 2000 16th Ave, Vero Beach, Fl 32960. It is further:

ORDERED that Deryl Loar, Sheriff of Indian River County or his designated agent shall return __ (inmate name) __ to the __ (facility name) __, or to the facility where he/she is then housed, after the above court proceedings are concluded, unless otherwise ordered by this Court.

DONE AND ORDERED in Vero Beach, Indian River County, Florida, on this _____ day of _____ 20__.

MICHAEL J. LINN, CIRCUIT JUDGE

Certified Copy To:

Deryl Loar, Sheriff of Indian River County
Indian River County Sheriff's Office
4055 41st Avenue
Vero Beach, FL 32960

Copies To:

ⁱ Inmates are occasionally moved between facilities. This order covers any DOC facility where the defendant may be located. The sheriff's office should check with DOC prior to transport.
www.dc.state.fl.us/ActiveInmates/