

IN THE COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST. LUCIE, 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. ¹

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**

¹ 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).

or motions in the case, or ask that action be taken in a case *via* telephone.

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. 5th DCA 1991) (*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. 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 prohibited by Florida Statute § 454.23.

Also, documents, records, character references or sentencing recommendation letters, should **not** be sent to the court, but to the Defendant's attorney. The defendant's attorney will then decide whether the letter or document should be provided to the court, with a copy to the State. **IF ANY PERSON SUBMITS AN *EX PARTE* COMMUNICATION, IT WILL BE RETURNED, AS IT CANNOT BE READ, CONSIDERED OR ACTED ON BY THE JUDGE.**

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 CAN PROVIDE YOU ONLY WITH (1) THE DEFENDANT'S NEXT COURT DATE AND (2) THE NAME OF DEFENDANT'S ATTORNEY, IF ANY. IF YOU 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 St. Lucie County, Florida on this 15th day of
June, 2017

Kathryn Nelson
KATHRYN NELSON
COUNTY JUDGE