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# NASSAU COUNTY FELONY DIVISION B

## POLICIES AND PROCEDURES<sup>1</sup>

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### JUDGE STEVEN M. FAHLGREN

ASHLEY STRICKLAND, JUDICIAL ASSISTANT

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#### I. COURT INFORMATION—COURTROOM A

##### A. General

Judge Fahlgren does not plan to make any substantial changes to the felony schedule. Felony court is held every Tuesday and Thursday morning in Courtroom A on the 3<sup>rd</sup> floor of the RMFJC in Yulee. On both Tuesdays and Thursdays, the Court will continue to hold pre-trial conferences, motion hearings, dispositions, etc. Thursdays will continue to be generally reserved for arraignments, and Service of Rule (SOR) hearings / Notices to Appear (NTA) for Violation of Probation (VOP) hearings. The schedule for both Tuesday and Thursday mornings is as follows: jail cases are called first at 8:30 a.m. subject to the Jail Zoom link being available, i.e., not being used for First Appearances, out of custody cases with defendants appearing in person are called second but it is not necessary for them to be there before 9:30 a.m., cases set for motion hearings will be called last, and any lengthy motion or sentencing hearings will likely be set for the afternoon. **Out of custody Defendants are required to appear in person in Court A unless they receive written permission from the court otherwise.** Counsel may appear via Zoom.

##### B. WAIVERS OF APPEARANCE

Written waivers of appearance shall be recognized except for arraignments, Service of the Rule, and during pretrial hearings that take place after an offer was made by the prosecution or defense, pleas or sentencing hearings, or final pretrials and trials. See *Cruz v. State*, 822

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<sup>1</sup> Updated 11/18/24

So. 2d 595 (Fla. 3rd DCA 2002). For those hearings, the Defendant shall be present in person unless specifically excused by the Court.

### **C. MOTIONS FOR PRETRIAL DETENTION**

Motions for Pretrial Detention filed under the 2024 version of the Pretrial Release and Detention statute (F.S. 907.041) at First Appearance have strict time requirements for holding the hearing. In Nassau County, these motions will be routinely passed to the next felony docket, which is usually a Tuesday or Thursday. Sometimes the felony court docket is held only one day per week. If the five-day time in which a hearing must be held would run before the next felony docket, then any such Motion for Pretrial Detention shall be handled by the assigned judge who handles county court criminal custody dockets on Monday afternoon in Courtroom D. In most cases, this will be handled by Judge Jenny Higginbotham. If she or the judge covering for her is unavailable, Judge Lester Bass, has agreed to cover the hearing at noon on Monday or Tuesday if the courthouse is closed on Monday. The Assistant State Attorney shall send a courtesy copy of such motion to the covering judge as soon as possible and notice the hearing to the other party. Of course, nothing prevents the Assistant State Attorney and counsel for the Defendant to agree to the hearing being moved to the next felony court docket.

### **D. SUBSTANTIVE MOTIONS**

All substantive motions, including, but not limited to, motions to suppress, motions to dismiss, motions to reduce/modify bond, shall be filed in writing.

### **E. CREDIT FOR TIME SERVED**

It is the responsibility of Defendant's counsel

### **F. ADULT DRUG COURT PROBATION**

With respect to persons sentenced to adult drug court as part of probation, counsel for the Defendant shall email attorney, Jeanine Sasser (email address JSasser@pd4.coj.net) that same day to let her know that she has another client coming to adult drug court, including the defendant's name and case number, and the disposition, so that she can get her client oriented. A copy of the email should be sent to Assistant State's Attorney Ann Marie Johnson (amjohnsosn@coj.net). This will avoid problems where adult drug court is unaware that a particular defendant is required to attend in advance of court, starts the orientation process, and minimizes the risk that defendants will use illegal drugs pending their start date. Screenings are scheduled within thirty (30) days. Screening requests should be sent to Daniel Jenkins ([jenkinsd@coj.net](mailto:jenkinsd@coj.net)), Chantel Prescott ([cprescott@coj.ent](mailto:cprescott@coj.ent)) and [drugct@coj.net](mailto:drugct@coj.net).

## **G. MOTIONS FOR BOND REMISSION**

When sureties file motions for bond remission in criminal cases pursuant to section 903.28, Florida Statutes, the Clerk has standing to oppose the motion if the statutory elements are not met. Because the Clerk is not a party to the criminal action, that office does not receive notice of the motion unless the surety serves the motion on the Clerk or the Court alerts the Clerk to the filing. The Clerk has asked if the Court can let the Clerk know when a motion has been filed, so the Clerk can respond to that motion. To provide due process to all parties, sureties filing motions for remission relating to Nassau County cases are directed to file such motion and serve a copy on the Clerk at [bondrem@nassauclerk.com](mailto:bondrem@nassauclerk.com)

## **II. HEARING TYPES**

### **A. Arraignments**

#### **1. Assistant State Attorneys (ASAs)**

- a. Arraignment Information—At arraignment, ASAs must be prepared to provide the Court and Defendant with the following information.
  - (i) Guideline/Scoresheet points and lowest permissible sentence and maximum possible sentence
  - (ii) Any enhancements, minimum mandatory sentences, or mandatory minimum sentences
  - (iii) State offer (if any)
  - (iv) Discovery and the number of Category A witnesses

#### **2. Defense Attorneys**

- a. Pleas of Not Guilty and Waiver of Appearance—Attorneys shall have the client present for the arraignment unless the Court specifically grants the waiver of appearance.
- b. Defense shall acknowledge receipt of the information or indictment and any discovery tendered by the ASA.

### **B. Pre-trials**

1. **Intervening Court Dates** shall be scheduled by the Court to determine the status of the case.

2. **Discovery**

- a. **Depositions**: If depositions are not properly noticed by opposing counsel **ten (10) days** prior to the date communicated to the Court on the record, then the opposing party shall add the case to the calendar to address the matter with the Court. The attorneys shall not wait until the next court date to bring it to the Court's attention.
- b. **Non-Appearance of Witnesses**: If there are issues with witnesses appearing for depositions, it must be brought to the Court's attention early in the process.

3. **Waivers of Appearance** shall be filed in writing prior to the court date and are generally accepted by the Court. A prerequisite to the Court accepting the waiver of appearance is that defense counsel shall have good contact with a client. A waiver of appearance is not acceptable at a final pretrial hearing.

**C. Hearings on Motions**

1. **Motions**—Once the movant has confirmed the opposing party objects to the pending motion, please send a courtesy copy to the Court and advise as to how much time is collectively requested for the hearing on the pending motion. It is important to note that the Clerk of Court does not send copies of motions to the Court. The motion and any authority can be emailed to the Court at [astrickland@coj.net](mailto:astrickland@coj.net), or it can be delivered to the Court at 76347 Veterans Way, Yulee, FL 32097. All emails to the Court should be copied to the opposing party.
2. **Scheduling**—Generally, hearings on any motions will be scheduled on a Tuesday or Thursday during the morning or afternoon docket.
3. **Time**—The parties should inform the Court of the number of witnesses and length of time anticipated for the hearing. Any changes to the estimate must be communicated to the Court to allow the shift in schedule if needed.

**D. Pleas and Other Forms**

1. **Pleas**—All pleas must be in writing and the appropriate plea forms must be completed for the Court to review. Plea forms can be found at

<https://www.jud4.org/Top-Navigation/Court-Administration/Felony-Plea-Forms.aspx>.

- a. The State and Defense shall document all of the conditions and expectations of the plea on the form and on the record at the time of the plea. The form shall reflect the full scope of the disposition in the case.
  - (i) The defense attorney shall read and review the plea form with the Defendant before calling the case for a plea colloquy with the Court.
- b. The State shall be prepared to report on the following:
  - (i) Any minimum and maximum sentences, as charged in the Information or Indictment;
  - (ii) the factual basis for the plea;
  - (iii) whether or not the alleged victim agrees with the disposition;
  - (iv) any exonerating DNA or lack thereof.
- c. A deferred sentence imposition date or a furlough, such an agreement shall be first approved by the Court.

2. **Waiver of Speedy Trial**—All waivers of speedy trial must be in writing. Waiver of Speedy Trial forms can be found at <https://www.jud4.org/Top-Navigation/Court-Administration/Felony-Plea-Forms.aspx>.

3. **Admission of Violation of Probation or Community Control**—All admissions of violations of probation or community control.

- a. The State and Defense shall document all of the conditions and expectations of the admission on the form and on the record at the time of the admission. The form shall reflect the full scope of the disposition in the case and **the conditions Defendant is specifically admitting to must be documented on the form.**
  - (i) the defense attorney shall read and review the admission form with the Defendant before calling the case for an admission colloquy with the Court.

- b. The State shall be prepared to report on the following:
  - (i) guidelines, whether there were additional points added to the score sheet for new law violations or if Defendant was scored as a Violent Felony Offender of Special Concern and any minimum and maximum sentences.
  - (ii) the factual basis for the plea;
  - (iii) any exonerating DNA or lack thereof.

4. **Pleas on Sex Cases**

- a. **Pleas**—All sex case pleas must be in writing and the appropriate plea forms must be completed for the Court to review. Plea forms can be found at <https://www.jud4.org/Top-Navigation/Court-Administration/Felony-Plea-Forms.aspx>.
  - (i) The State and Defense shall document all the conditions and expectations of the plea on the form and on the record at the time of the plea. The form shall reflect the full scope of the disposition in the case.
  - (ii) the defense attorney shall read and review the plea form with the Defendant before calling the case for a plea colloquy with the Court.
- b. The State shall be prepared to report on the following:
  - (i) any minimum and maximum sentences, as charged in the Information or Indictment;
  - (ii) the factual basis for the plea;
  - (iii) whether or not the alleged victim agrees with the disposition;
  - (iv) any exonerating DNA or lack thereof;
  - (v) State must inform whether the plea will result in the designation of Defendant being designated as a Sexual Offender or Predator.
- c. The State and Defense shall notify the Court if there are sensitive issues related to the plea or case that will require a special set for the plea. The State shall ensure that they have informed the listed victim or guardian of Marsy’s law and any rape shield provisions of section 794 Florida Statutes that apply to the case. If the case is called during normal calendar the Court

will assume that the alleged victim or guardian has been informed and has waived any protections provided by law.

d. Pleas that Involve Sex Offender probation

(i) Defense shall inform the Defendant of all general and special conditions of probation. If there is an agreement to non-statutory requirements of probation, it **must be initialed by Defendant** and **specifically referenced** that Defendant agrees to the condition as a part of the negotiated agreement.

e. Court Costs and Surcharges

(i) All surcharges must be reviewed with Defendant and verified that the surcharge applies to the case before the plea. **The attorneys are responsible for reviewing the statute and determining the appropriate court costs and surcharges that apply to the case.**

**E. Requests to Add or Remove Cases from the Calendar**

1. **Requests Days in Advance**—the preferred method of requests to add or remove a case from the calendar should be days in advance. Attorneys are responsible for alerting the Court of all related and filed pending cases.
2. **Following Day Requests**—All requests to add or remove a case from the Court's calendar must be submitted by 12:00 p.m. The deputy clerks and the Nassau County Sheriff's Office corrections need time to process requests. If the requests are received later than 12:00 p.m., it puts an undue strain on the agencies listed above. Attorneys are responsible for alerting the Court of all related and filed pending cases.
3. **In Court**—All requests to add cases to the calendar in court should be avoided. However, if the deputy clerk has the proper documentation to add the case, then the Court can approve the request. Attorneys are responsible for alerting the Court of all related and filed pending cases.

**F. Final Pre-Trials**

1. The attorneys who are trying the case shall be present.
2. The Defendant shall be present.

3. Counsel for each party shall be prepared to report the following information:
  - a. whether each party is ready for trial;
    - (i) all motions for continuance shall be filed in writing.
  - b. any state offers that were made to Defendant and rejection (if any);
  - c. any defense offers made, and rejected by the State  
(if any);
  - d. request for the number of jury panelists needed for jury selection;
  - e. the estimated length of trial days (not including jury selection);
  - f. any date/time restrictions in scheduling due to witnesses or attorneys;
  - g. whether an interpreter or any other accommodation will be necessary;
  - h. whether there are any outstanding motions or evidentiary issues.

**G. Jury Selection and Trials**

1. The Court's jury trial weeks can be found at [www.jud4.org/Ex-Parte-Dates-Judge-s-Procedures/Nassau-Judges/Judge-Lester-Bass/Judge-Steven-M-Fahlgren/Felony-Trial-Weeks.aspx](http://www.jud4.org/Ex-Parte-Dates-Judge-s-Procedures/Nassau-Judges/Judge-Lester-Bass/Judge-Steven-M-Fahlgren/Felony-Trial-Weeks.aspx)
2. Parties should arrive at least ten (10) minutes prior to the jury selection or trial start time.
3. For multiple jury selections and trials, all parties must be present for the entire jury selection. Generally, the trial scheduled earlier in the week will go first when selecting the jury.

**H. Zoom Appearances**

1. With appropriate notice, the Court will allow appearances via Zoom pursuant to "Use of Communication Technology" Florida Rules of Criminal Procedure 3.116. Participants shall name their Zoom profile with their legal names such that they can be easily identified. Defendants appearing remotely by video via Zoom planning to testify should be prepared to furnish the Court with a picture identification such as their driver's license via video. Defendants appearing before the Court without

video via Zoom that intend to testify will likely need to be in the presence of a notary public for the purposes of being identified and sworn in.

Judge Fahlgren's reoccurring Zoom meeting invitation for felony court:

<https://zoom.us/j/99223604997>

Meeting ID: 992 2360 4997

Passcode: QjJ0nH

+1 470 381 2552 US (Atlanta)

Passcode: 880272

Find your local number: <https://zoom.us/u/acpGGH4mWy>

There is a separate Zoom invitation hosted by the Nassau County Jail for first appearance (<https://zoom.us/j/7245497784>)

### **III. COURTROOM RULES**

#### **A. Attorneys**

The Court understands that it is important for the attorneys to communicate during court proceedings to conduct legal business. However, it is important that any extended conversations not occur in court to distract from the proceedings. The parties should excuse themselves to the hallway or anterooms if extended conversations are necessary. Attorneys should avoid any behavior that would detract from the proceedings.

#### **B. Defendants**

1. Defendants shall be prompt for court. Please reference the start times above for general information.
2. Dress appropriately for Court.
3. The Court sets a strict no cellphone policy. For security and decorum, all cell phones must be powered off during court proceedings.
4. Communicate with your counsel about court proceedings and stay in contact with your counsel. The knowledge of court dates and appearance requirements are the responsibility of the Defendant.

#### **C. Victims of Crime**

All victims of crime or next of kin may attend any court proceeding pursuant to Marsy's law. Dress appropriately for Court and observe the strict no cell phone policy.

**D. Media**

Please review the media Administrative Order No. 2023-03 Media & Technological Coverage Of Judicial Proceedings, Including Cases Of Extraordinary Public Interest—see the following link:

<https://www.duvalclerk.com/adminOrders/files/update/2023-03-BBE90C26-D0CD-4021-82A1-CC7C9A39286B.pdf?n=1527&t=638388388213364904>

**E. Public**

Court proceedings are open to the public, however when attending proceedings all court rules must be observed at all times.