

| | | |
|---|---|---|
| <p>N. HUNTER DAVIS CIRCUIT COURT JUDGE SEVENTEENTH JUDICIAL CIRCUIT STATE OF FLORIDA</p> |  | <p>BROWARD COUNTY COURTHOUSE 201 SOUTHEAST SIXTH STREET FORT LAUDERDALE, FLORIDA 33301</p> <p>GIGI JIMÉNEZ JUDICIAL ASSISTANT (954) 831-7763 <i>Note: no facsimile available</i></p> |
|---|---|---|

DIVISION PROCEDURES FOR CRIMINAL DIVISION FB

Revised Sept. 1st, 2023

I. Locations and Hybrid Proceedings

- a. Physical Locations
- b. Virtual Locations for Zoom Videoconferencing
- c. Can I appear by Zoom?
 - i. YES
 - (1) Limitation No.1
 - (2) Limitation No. 2
 - ii. NO

II. Communications with the Court and Court Personnel

III. Weekly Dockets and Hearing Types

IV. Motion Calendar (“MC”)

- a. General Provisions
- b. Cancellations
- c. Arraignments

V. Special-Set Hearings

VI. Calendar Call & Trial

- a. Scheduling - In the Normal Course
- b. Scheduling - Special Settings
- c. Conduct of Calendar Call
 - i. Prosecution
 - ii. Defense
- d. Presumption of Readiness
- e. Motions in Limine, Notices of Intent, and Stipulations
- f. Conduct of Trial
 - i. Use of Exhibits
 - ii. Proposed Jury Instructions

VII. Emergencies

VIII. Motions Practice

- a. General Provisions
- b. Motions to Compel
- c. Motions to Withdraw
- d. Motions for Rehearing or Reconsideration
- e. Motions for Waiver of In-Person Service of Change-of-Charge Capias
- f. Motions for Return of Property

IX. Proposed Orders

X. Cancellations

XI. Interpreters

I. LOCATIONS AND HYBRID PROCEEDINGS

a. Physical Locations.

The drop-off mailbox for Judge Davis' chambers, No. **NW-6850**, is located in the common reception area, behind the elevator bank on the **6th floor** of the North Wing.

Division FB hearings are held in Courtroom No. **NW-6750**, located on the **Sixth floor** of the North Wing of the Broward County Central Courthouse, 201 Southeast Sixth Street, Fort Lauderdale, Florida 33301.

b. Virtual Locations (Zoom videoconferencing).

For remote appearances, via the Division FB Zoom **Meeting ID 532-000-556**, Courtroom 6750 is equipped with a 360-degree camera and other technology to allow viewing of each court session. Our direct zoom link is below:

<https://17thflcourts.zoom.us/j/532000556>

c. Can I appear by Zoom?

i. YES (unless specifically directed to appear by the Court)

Consistent with Administrative Order No. 2022-004-TEMP(III)(2), the following matters may generally be heard remotely, unless the Court has made physical appearance mandatory for cause:

All First Appearance hearings, any Status or Case-Management Conference, Motions to Dismiss (only if a pure question of law and the parties stipulate to facts) or any Calendar Call for a case **filed on or after January 1, 2022**. Most, but not all, other brief, non-evidentiary matters are also appropriate for remote appearances by Counsel.

Counsel may also appear remotely for Arraignments, though Defendants will often need to physically appear in the courtroom for service of any outstanding capias, if applicable. *See below* Paragraph IV. MOTION CALENDAR below for additional information regarding arraignments and written pleas; *see also* Paragraph VIII. "MOTIONS PRACTICE" regarding Motions for Waiver of In-Person Service of Change-of-Charge Capias.

(1) LIMITATION No. 1

ZOOM IS FOR COUNSEL OR SELF-REPRESENTED PARTIES ONLY

Beginning May 1, 2023, any represented party who wishes to appear by zoom must have their counsel file a written motion with the Court demonstrating why either waiver of their client's appearance altogether per Fla.R.Cr.P. 3.180(a)(3) **or** the client's physical appearance in the courtroom is either impossible or wholly impracticable. Zoom appearances by represented clients are strongly discouraged, but will be allowed for good cause on a case-by-case basis.

(2) LIMITATION No. 2

NON-PARTICIPATING OBSERVERS ON ZOOM

Non-participating observers are welcome on Zoom, but must appear under the name "OBSERVER," with cameras turned off and microphones muted. No background artwork or other images should appear on the screen. Failure to follow these instructions may result in removal from the meeting.

ii. NO (unless specifically authorized by the Court)

Consistent with Administrative Order No. 2022-004-TEMP(III)(1), the following matters generally must be heard in-person, with Counsel and the Defendant physically present in the courtroom:

Calendar call for any case **filed prior to January 1, 2022**, Changes of Plea and VOP Admissions, Motions to Set or Modify Bond, *Arthur* Hearings, Motions to Suppress/*Franks* Motions, Motions to Dismiss (unless a pure question of law), Violation of Supervision Reprimands, Violation of Probation matters, VOSC Hearings, Motions for Downward Departure, Sentencings, Jury Trials, Bench Trials, and most other evidentiary matters.

However, if Counsel or a party has particularized COVID-19 related health concerns or other circumstances necessitating a remote appearance for a matter described in Paragraph I(c)(ii) above, and the matter is not of a type that absolutely requires physical presence (i.e. trial, change of plea, &c.), please confer with opposing counsel and motion the Court for authorization to conduct the hearing remotely; adjudication of such motions will be on a case-by-case basis.

II. COMMUNICATIONS WITH THE COURT AND COURT PERSONNEL

Please note that filing a pleading does not automatically bring the matter before the Judge or set the matter for hearing; parties must schedule a hearing time with the Court. *See* MOTION CALENDAR and SPECIAL-SET HEARINGS *below*.

Likewise, whether filing in-person or utilizing e-filing, filing a pleading with the Clerk of Court does not ensure the Court has received a copy of your document. If you desire to have the Court review your pleading prior to the time of your hearing, you must send a separate courtesy copy to the Judge's chambers. Please send an electronic (.pdf) or hardcopy of your pleading (including attachments, unless voluminous) to the Judge's chambers, via electronic mail, U.S. Mail or drop-off mailbox, at least five business (5) days in advance of hearing.

Commonly requested contact information:

The Judicial Assistant: **Gigi Jiménez**
The division electronic mail address: ***divfb@17th.flcourts.org***
The division telephone number: **954-831-7763**

Our in-court Clerk: **Brittany Dean**
Clerk of Court Felony Division telephone: **954-831-6565; 954-831-5600** (*attorneys only*)
Clerk of Court Website: ***<https://www.browardclerk.org/Divisions/Felony>***

Office of the State Attorney telephone: **954-831-6955**
Office of the State Attorney website: ***<https://browardsao.com/>***

Office of the Public Defender telephone: **954-831-8650**
Office of the Public Defender website: ***<https://www.browarddefender.org/>***
Instructions for seeking services: ***<https://www.browarddefender.org/seeking-legal-representation-from-the-public-defenders-office/>***

Our in-court Probation Officer: **Latrone Bailey**
Dept. of Corrections/Probation telephone: **954-677-5595**
Dept. of Corrections website: ***<http://www.dc.state.fl.us/>***
Florida Inmate/Supervisee/Release Search: ***<http://www.dc.state.fl.us/OffenderSearch/InmateInfoMenu.aspx>***

Broward County Sheriff's Office: **954-764-4357**
Broward Sheriff Website: ***<https://www.sheriff.org/Pages/Home.aspx>***
Broward Inmate Search: ***<https://www.sheriff.org/dod/pages/arrestsearch.aspx>***

Miami-Dade Police Dept. Corrections: **786-263-7000**
 Miami-Dade County Inmate Search: <https://www8.miamidade.gov/Apps/mdcr/InmateSearch/>

Palm Beach County Sheriff's Office: **561-688-3000**
 Palm Beach County Inmate Search: https://www.pbso.org/arrest-jail_menu/

Monroe County Sheriff's Jail Records: **305-293-7400**
 Monroe County Inmate List: <https://www.keyssso.net/jailog>

III. WEEKLY DOCKETS AND HEARING TYPES

Hearings for Division FB may be set during any of the following designations: (1) Motion Calendar ("MC"); (2) Calendar Call ("CCALL"); (3) Special Set Hearing ("S/S"); (4) Trial ("TRIAL"). Hearings will generally be set under one of the preceding designations and according to the following schedule:

| | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY |
|---------------|--------------|--------------|--------------|--------------|--------------|
| 8:30 - 9:00a | | | | | CCALL |
| 9:00 - 10:30a | MC | MC | MC | MC | CCALL |
| 10:30 - Noon | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | CCALL |
| Noon - 1:30p | Lunch | Lunch | Lunch | Lunch | Lunch |
| 1:30 - 2:30p | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL |
| 2:30 - 3:30p | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL |
| 3:30 - 4:45p | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL |
| 4:45 - 5:30p | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL | S/S or TRIAL |

IV. MOTION CALENDAR ("MC")

Monday - Thursday at 9:00 a.m. to 10:30 a.m.

a. General Provisions

Among other brief matters, arraignments, bond/pretrial release motions, motions regarding discovery disputes, status conferences/case management matters, opposed motions seeking continuance of an evidentiary hearing or trial, are regularly heard during this time. These hearings should generally be limited to matters which can be heard within five to ten (5-10) minutes (2.5 to 5 minutes per party). Parties wishing to set matters that require in excess of ten (10) minutes should request a special set hearing from the Judicial Assistant. MC matters will be heard on a first-come-first-served basis. If opposing Counsel is not present, please attempt to contact Counsel to inquire as to their status and intentions.

b. Cancellations

Since the number of hearings is limited and the Court attempts to review written materials in advance, **please timely cancel any hearings by contacting the Judicial Assistant directly**, if and when a matter is resolved prior to your scheduled hearing time. *See below* CANCELLATIONS.

c. Arraignments - Wednesdays at 9:00 a.m.

While all parties and Counsel are welcome to attend, if a written plea of not guilty and demand for trial has been previously filed, parties and Counsel do NOT need to appear for an arraignment. Upon receipt of a written plea of not guilty, the matter will be set for the first available Calendar Call in the normal course. In any event, the State should be prepared to provide an accurate sentencing scoresheet, recite

whether a plea offer has or will be conveyed to the defense and the relevant terms of the same, specifically including all applicable sentencing enhancements or minimum-mandatory sentencing.

V. SPECIAL-SET HEARINGS

Monday through Thursday 10:30 a.m. to 4:45 p.m.; Friday 1:30 p.m. to 4:45 p.m.

Please send in a copy of your motion with a request that includes the amount of time needed to Chambers. Once the request has been reviewed, the Judicial Assistant will contact the parties for scheduling. The moving party shall then notice the hearing. All motions must be filed with the Clerk's office before requesting a hearing time.

VI. CALENDAR CALL & TRIAL

Monday through Thursday 10:30 a.m. to 4:45 p.m.; Friday 1:30 p.m. to 4:45 p.m.

| | WEEK 1 | WEEK 2 | WEEK 3 | WEEK 4 |
|-----------------------------|------------------------|---|------------------------|------------------------|
| Hearing Priority | Priority to Jury Trial | Priority to S/S Hearing and FVOP / Bench Trial* | Priority to Jury Trial | Priority to Jury Trial |
| Friday Calendar Call | 3rd° Felony | 2nd° Felony | 1st° Felony | 1st° Felony |
| Monday Jury Trial | 1st° Felony | 3rd° Felony* | 3rd°, 2nd° Felony | 2nd°, 1st° Felony |

a. Scheduling - In the Normal Course

Jury trials and bench trials will generally be set by the Court during the Friday morning Calendar Call. Parties announcing ready-for-trial will be scheduled to begin within a two-week window, beginning the following Monday morning. N.B.: Other evidentiary hearings and bench trials will be given priority over third-degree jury trials during the second week of each month.

Beginning May 6, 2022, the following schedule will also apply, with appropriate exceptions made:

- i. For Calendar Call on the first Friday of each month, priority will be given to cases charging third degree felonies.
- ii. For Calendar Call on the second Friday of each month, priority will be given to cases charging second degree felonies.
- iii. For Calendar Call on the third and fourth Friday of each month, priority will be given to cases charging first degree, PBL, Life, and Capital felonies.

b. Scheduling - Special Settings

Parties otherwise ready for trial, but seeking a date-certain to commence trial because of logistical or other concerns, should confer with one another and then coordinate a special-set trial date with the Judicial Assistant. Ideally, this should be done prior to the next scheduled Calendar Call hearing; the Calendar Call hearing can then be cancelled by the Judicial Assistant. The Court may also set a pretrial conference in advance of the trial date.

c. Conduct of Calendar Call

i. Prosecution

The State should be prepared to announce ready for trial (or not - *see* paragraph d *below*), either the first or second week of the trial period. In addition, the State should be prepared to provide an accurate sentencing scoresheet, recite whether a plea offer has been conveyed to the defense and the relevant terms of the same, specifically including all applicable sentencing enhancements or

minimum-mandatory sentencing. All persons, including civilian witnesses and supervisors, necessary to formulation or approval of a plea offer and/or realistic trial preparation must be consulted in advance of the first Calendar Call so that cases are not unnecessarily delayed.

ii. Defense

The Defense should be prepared to announce ready for trial (or not - *see* paragraph d *below*), either the first or second week of the trial period. In addition, the Defense should be prepared to identify any inaccuracies in the State's sentencing scoresheet or purportedly applicable sentencing enhancements or minimum-mandatory sentencing and recite whether a plea offer (or counter-offer) has been conveyed to the State. Attorneys must discuss any plea offers with their client before (or at least during) Calendar Call, as the Court may not accept a negotiated resolution once a jury trial is set.

d. Presumption of Readiness

Once a trial date has been set, parties should presume that trial will immediately proceed on the scheduled date at the scheduled time. Best practices include immediately filing and requesting a hearing date upon any motion to continue as soon as grounds for such a motion come to light. Parties should exercise due diligence, caution, and candor in representing affirmative readiness for trial; if there are contingencies potentially affecting a party's prospective readiness for trial, these matters should be discussed at the Calendar Call and a motion for continuance should be considered *at that time*.

e. Motions in Limine, Notices of Intent, and Stipulations

The Court encourages use of stipulations and motions in limine to narrow the scope of issues and limit unnecessary or cumulative testimony at trial. Notices of intent to rely on certifications in lieu of live testimony or to present voluminous records in summary form are also encouraged, where parties think appropriate. Adverse parties are likewise encouraged to move to strike any notice of intent they believe defective or otherwise legally insufficient. In order to preserve available remedies for all parties and the efficient use of trial time, the Court encourages all the above be set on motion calendar or special-set well in advance of trial.

f. Conduct of Trial

i. Use of Exhibits

Attorneys should employ the actual exhibits admitted in evidence, rather than additional copies, when examining witnesses about said exhibits. Attorneys should attempt to refer to the exhibits by their assigned letter prior to admission in evidence, and then by the assigned number thereafter. This ensures the parties, the Clerk, the Court, and the record speak to precisely the same items.

ii. Proposed Jury Instructions

Where practicable, counsel should attempt to confer regarding proposed jury instructions prior to conclusion of closing arguments or earlier.

VII. EMERGENCY HEARINGS

Any pleading asserting the existence of an emergency shall be accompanied by a cover letter to the Court and a proposed order. Each request for an emergency hearing will be reviewed by the Court to determine if the motion/petition and the proposed order comply with Florida Law and Procedure, as well as to determine if the stated claim constitutes an emergency under same. The Court will act on these matters as quickly as is practicable and will give matters purporting to be emergencies priority over other matters;

however, **parties are urged not to abuse these procedures** by styling merely time-sensitive matters as “emergencies.”

Prior to styling any motion or petition as an emergency, please review the following definitions provided in Administrative Orders No. 2019-009-UFC: “a matter of imminent or impending abuse, neglect or abandonment affecting the health, safety or welfare of a child”; and No. 2014-32-CIV: “a matter that will result in irreparable harm, death or result in a manifest injury if immediate relief is not afforded.” *See also* Fla.R.Civ.P. 1.610(a)(1)(A). Pursuant to A.O. No. 2019-009-UFC(5), all emergency motions must include a certification by counsel or the party pro se that the motion both qualifies under the above definitions and is brought in good faith. Sanctions may be imposed for failure to comply with these Administrative Orders.

Please also note that F.S. 39.201 requires certain allegations regarding child abuse, neglect or abandonment be immediately reported to the Department of Children and Families. **If the allegations in your motion allege abuse, neglect or abandonment of a minor child, you must also immediately report the matter to the Abuse Hotline at: 1-800-962-2873 (1-800-96-ABUSE).**

VIII. MOTIONS PRACTICE

a. General Provisions

All motions or applications for an order **shall** include a concise statement of the relief requested, a statement of the basis for the request, and citation to the legal authority in support thereof.

Any party opposing a motion or application **may**, and are encouraged to, file a written response that includes citation to legal authority in opposition to the movant’s request.

Prior to appearing before the Court, the parties shall discuss the issues raised in the pending motion, and both parties shall be prepared to certify they have made a good faith effort to resolve the issue or issues without intervention of the Court. Please note that pursuant to Local Rule 10-A, which the Court incorporates herein: “prior to setting any matter on . . . motion calendar, the party or parties noticing the motion shall attempt to resolve the matter by direct communication with all parties, and shall also certify a good faith attempt to resolve or narrow the issues contained in the motion. Direct communication means by oral or written communication, including by telephone, in person, email, or text messaging.”

Furthermore, if an initial attempt to communicate is not successful, **it is the Court’s expectation that Counsel will continue to make efforts, in good faith, to actually speak to with opposing Counsel prior to appearing in the courtroom.** Counsel should anticipate and make allowances for the vagaries of legal practice, such as assistants misplacing telephone messages, misdirected mail and e-mail, the limits and imperfections of human memory, and changes of Counsel, especially the routine reassignment of cases to individual ASAs and APDs, which their duties often necessitate. Often a simple follow-up telephone call can save a great deal of time for the Court - and effort for both Counsel.

b. Motions to Compel

When a motion to compel alleges ***a complete failure to respond or object to discovery***, and there has been no request for extension, an ex parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. Movant shall submit a proposed order. However, a motion alleging merely ***inaccurate, incomplete, untimely, stale or otherwise defective responses to a demand*** for disclosure, always require a hearing with notice to the non-moving party.

c. **Motions to Withdraw**

If the attorney has not obtained written consent from the client pursuant to Fla.R.Jud.Adm. 2.505, the client should be noticed of the hearing and provided a copy of the motion to withdraw. In the body of the proposed order granting withdrawal, the client's name, physical and mailing addresses, email address, and phone number must be included. If counsel is appearing telephonically, an order may be submitted in advance. If the client is not a natural person, please include a statement that the entity must be represented by counsel, who must file their appearance within twenty (20) days from the date of the order or a default may be entered. *Assistant Public Defenders moving to withdraw from a case must notice the Office of Regional Conflict Counsel in advance so that hearing on the motion is not unnecessarily delayed.*

d. **Motions for Rehearing or Reconsideration**

Except where explicitly authorized by the Court, no motions for rehearing or reconsideration shall be set for hearing. *See* Administrative Order No. 2022-005-GEN, *superseding* former Administrative Order No. 2017-33-GEN.

e. **Motions for Waiver of In-Person Service of Change-of-Charge Capias**

Florida Statutes Section 775.15(4)(b) requires service for a new charge without unreasonable delay. The following procedures apply where a Defendant has been previously arrested and is out on bond and/or pretrial supervision.

Where a new change of charge capias has been generated by the Clerk's office at the time of the filing of an Information, the Defendant may waive in-person service and accept service on the new charge at a Court hearing.

Defendant shall notify their bond company of the new charge, and request an "Affidavit to Remain on Bond." This Affidavit must reflect the bond company's awareness of the current charges and be filed with the Clerk's office, as well as sent by electronic mail to the State Attorney's Office and the Judicial Assistant as soon as possible.

At the hearing on the motion to waive in-person service of the change-of-charge capias, Defendant must have a government-issued photo identification (if available, or else other information must be used to verify identity). If all documents are in order, the Court will conduct a brief colloquy of Defendant and waive in-person service of the warrant and the additional booking by law enforcement.

f. **Motions for Return of Property**

Notice must be provided to the law enforcement agency, as well as the State Attorney. If the matter is not contested, please provide the JA with an agreed order; if contested, the matter must be set for a hearing. Note: Return of a firearm will generally require a background check via FDLE.

IX. PROPOSED ORDERS

Proposed orders may be submitted in hard copy directly to chambers via electronic mail, U.S. Mail or the drop-off mailbox. The Court will review, enter, and conform orders as promptly as possible. Any party submitting a proposed order shall provide an advance copy to the opposing party and confirm whether an objection to the proposed language exists. **Competing orders will no longer be accepted by the Court;** if the parties cannot agree to the substance of a proposed order on a matter previously heard and decided by the Court, the parties must schedule a hearing on MC to resolve the dispute.

X. CANCELLATIONS

Attorneys and/or parties cannot cancel hearings without contacting the Judicial Assistant (divfb@17th.flcourts.org). If the parties have reached an agreement, an agreed order resolving the matter shall be submitted to the office prior to, or at the time of the hearing. If an agreed order is not submitted prior to the hearing, parties are expected to attend. If an agreed order has been entered, please remember to contact the Judicial Assistant to cancel any hearing dates previously set.

XI. INTERPRETERS

The Court will provide an interpreter for all Criminal and Domestic Violence Return Hearings. Please notify the Judicial Assistant at the telephone number above (*nosotros hablamos español*) or via email to: divfb@17th.flcourts.org, at least three (3) days prior to your hearing if you require the services of an interpreter. For a language other than Spanish or Haitian Creole, please contact the judicial assistant at least seven (7) days prior to your hearing.

For all other matters (not criminal or domestic violence cases), the Court will **attempt** to obtain an interpreter for the languages above, but cannot guarantee that a staff interpreter will be available for your hearing. Parties are responsible for obtaining their own interpreters for all matters other than criminal or domestic violence return hearings; if you appear for a hearing without first securing the services of an interpreter, your hearing may either be canceled or proceed without your full participation. **DO NOT WAIT UNTIL THE DAY OF YOUR HEARING TO SEEK THE SERVICES OF AN INTERPRETER!**