

DONNA PADAR BERLIN
CIRCUIT JUDGE



PAMELA MCCAGUE
JUDICIAL ASSISTANT

Sarasota Circuit Felony Division 6 – Information & Requirements

News & Updates to Information & Requirements

- Feb. 16, 2010:** Please see changes in requirements in *blue italics*.
Jan. 1, 2009: Effective January 1, 2010, Judge Berlin is the presiding Judge in Felony Division 6.

Contact Information

- Office Hours** Regular office hours are from 8:30 a. m. to 5:00 p. m.
The office is closed for lunch daily from 12:00 p. m. to 1:00 p.m.
- Courtroom** Proceedings are held in Courtroom 4A at the
Judge Lynn N. Silvertooth Judicial Center,
2002 Ringling Boulevard. Sarasota, Florida 34237
- Mailing Address:** Post Office Box 48927, Sarasota, Florida 34230
- Telephone:** (941) 861-7933
- Fax:** (941) 861-7921 (Please do not fax documents without first calling for permission to do so.)
- Division** The e-mail address for Sarasota Circuit Felony Division 6 is
E-Mail CirCrimDiv6@jud12.flcourts.org Please do not contact the JA using her personal e-mail.
Any e-mail sent to the division e-mail address shall comply with the rules regarding *ex parte* communications. All e-mails shall reference the relevant case number in the subject line, as well as the subject matter: for example, “2008 CF 001234 NC – Defendant’s Motion to Release Uncharged Defendant.”
- Web Site:** The web site for Felony Division 6 is located at
<http://12circuit.state.fl.us/Home/Attorney/CircuitCriminalDivisionVI/tabid/303/Default.aspx>

Local Rules and Standards of Professionalism

All attorneys and *Pro Se* litigants must follow the Local Rules and Standards of Professionalism, which are available on the Internet at www.sarasotabar.com .

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Courtroom Etiquette

Unless otherwise indicated on the docket, Court will begin promptly at 9:00 am each morning. All attorneys with cases on a docket are expected to arrive on time and be ready to address their case(s).

No cell phones may be used in court. All cell phones must be set on silent and may not be used while court is in session. The bailiff will confiscate cell phones used in violation of these requirements.

Court Calendars and Trial Dockets

Dockets Posted on Internet	Dockets are posted on the circuit's web site. <i>JACS dockets are closed three days prior to the hearing date. After a docket is closed, no additional changes will be made. It is the responsibility of the attorneys and their staff to refer to on-line dockets.</i>
Monthly Calendars	Monthly calendars for Felony Division 6 are posted on the Circuit's website and are updated regularly.
Trial Dockets	Tentative and Final versions of trial dockets for Felony Division 6 are posted on the Circuit's web site and are updated regularly.

Scheduling Hearings on the Court's Calendar

Prior to Reserving Hearing	All motions must be filed prior to reserving hearing time.
Hearings 60 minutes and less - JACS System	All hearings 60 minutes in length and less <i>must</i> be scheduled using the Court's Judicial Automated Calendaring System ("JACS"). Hearings can be scheduled through JACS either on the Internet at www.jud12.flcourts.org or by telephone at (941) 861-5227. Hearing times are available in 5, 15, 30 and 60 minute time slots. Please note that hearing time is available up to 10 weeks in the future. Do not schedule back-to-back time to obtain more hearing time (i.e., 2 back-to-back 15-minute slots to obtain 30 minutes of hearing time).
Hearings more than 60 minutes	All hearings estimated to last more than 60 minutes <i>must</i> be scheduled by telephoning the Judicial Assistant. Any hearing greater than 60 minutes scheduled on JACS will be canceled by the Court without notice.

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Scheduling Hearings on the Court's Calendar *continued* . . .

Time Reserved	Hearings are limited to the time reserved. The parties opposing the motion are entitled to equal time. Accordingly, the party reserving and scheduling the hearing should either determine how much hearing time is necessary and then at least double it to account for response time, or, preferably confer with opposing counsel and agree to the time required.
Hearings set on days dedicated to ASAs	All hearings must be set in time-slots designated for hearings. Hearing times are assigned to specific Assistant State Attorneys. The scheduling party must determine the ASA assigned to the case and schedule the hearing accordingly. In instances where it is necessary to set a hearing on a day other than the ASA's assigned day, the scheduling party must clear the specially-set hearing time with the Court, the ASA and any other interested party.
Canceling Hearings	Hearings scheduled through JACS may be canceled using JACS up to 3 days prior to the hearing date. If JACS deadline for canceling a hearing has passed, the scheduling party must contact the JA to cancel the Hearing and notify all parties of the cancelation.

Hearings & Motion Practice

General Requirements	Hearings are limited to the time reserved. The party opposing the motion hearing is entitled to equal time; as a result, the party scheduling the should confer with opposing counsel to determine how much time is need for both sides to address the Court before scheduling the hearing. All motions and other relevant paperwork shall be filed prior to the moving party reserving hearing time.
Courtesy Copies	Court files are not physically available at court hearings, though the Court has access to the electronic record. As a result, <i>attorneys must submit courtesy copies of the Notice of Hearing, the motion and all other relevant documents and case law</i> to the Court at least one week prior to the scheduled hearing.
Add-On Cases	Any party wishing to add a case or hearing to the docket after JACS has closed must contact the JA not later than 11:00 am the day prior to the scheduled hearing. Cases may not be added on without the express consent of opposing counsel and the Court.

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Hearings & Motion Practice *continued* . . .

- No Cross-Notices** Cross-notices, “piggy-backs” and substitutions are not allowed without
Piggybacks or the express consent of opposing counsel as well as of the Court.
Substitutions
- Emergency** All requests for emergency hearing time must be made by first contacting
Hearings the JA by telephone and then providing a detailed copy of the motion
for the Judge to review that includes an estimate of the amount of
hearing time required. The Judge will review the motion to determine
whether an expedited hearing is necessary.
- Interpreters** Please indicate in the notes on JACS when scheduling a hearing that an
interpreter is needed
- Jail** The scheduling attorney is responsible for notifying the bailiff’s office if
Inmates a jail inmate needs to be transported to the courthouse from the jail for
a hearing and when, if a hearing is cancelled, a defendant should NOT
be transported to court.
- Single Defendant** When scheduling a hearing on a single defendant involving multiple cases,
Multiple Cases all case numbers are required on the Notice of Hearing, beginning with
the lowest case number. Use the lowest case number when scheduling
through JACS and list additional cases in the “Notes” section.
- Single Motion** When scheduling a hearing on a single motion involving multiple
Multiple defendants, all defendants and case number are required on the
Defendants Notice of Hearing, beginning with the defendant whose last name comes
first in alphabetical order. Use that defendant’s name and case number
when scheduling through JACS and list additional defendants and their
case numbers in the “Notes” section.
- Telephonic** Telephonic appearances are permitted for all non-evidentiary hearings
Appearances that are less than 15 minutes in length without prior leave of the court.
On the Notice of Hearing, the attorney wishing to appear by telephone
must indicate his or her intent to appear by phone and indicate whether
the Court is to call a *toll-free number* or by *collect call*.

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Specific Motions

Continuances The Court strictly adheres to the mandates established by the United States Supreme Court, the Florida Supreme Court, Florida Rule of Judicial Administration 2.545(e) and Florida Rule of Criminal Procedure 3.190(g).

All motions to continue must be in writing and signed by the moving party unless good cause is shown. All requests for a continuance must be in writing and include: a Certificate of Good Faith; be signed by the Defendant; indicate whether the Defendant is in custody; the date the information was filed; the charge(s); the number of prior continuances and the parties requesting those continuance; a waiver of speedy trial; the status of discovery; details regarding efforts to get the case to trial; and any other information that is appropriate for the court to consider.

The Court will not hear oral motions to continue.

Stipulations to continue cases set on a trial docket must contain the same information set forth in motions to continue.

All requests for continuances will be considered and reviewed by the court on a case-by-case basis.

***Modify or
Terminate
Supervision***

All motions to modify or terminate supervision must be submitted in writing directly to the Court. The JA will set the motion for a hearing, at which the State and supervising officer shall be present. The State and supervising officer shall notify the Court in writing prior to the hearing as to whether there is an objection.

The Court will presume that early termination is possible in the express absence of no early termination being an expressly negotiated term agreed to by the parties at the time of the plea and sentencing.

Rehearing

All motions for Rehearing, Reconsideration or for New Trial must be submitted directly to the Judge. after requesting a written response from opposing counsel, the Court will review the motion to determine whether a hearing is necessary.

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Specific Motions *continued* . . .

Uncharged Defendants

Motions to release uncharged defendants must be provided to Court and the State. The motion shall include the Clerk's time stamp. The JA will contact the State and defense to confirm receipt of the motion. If the State files an Information by 5:00 p. m. the same date the motion to release is filed, the State shall provide a copy of the Information with the Clerk's time stamp to the Court and the defense. The State shall submit a proposed order to the Court denying the motion to release. If the State has no objection to an uncharged defendant's release, the State shall notify the Court and defense by submitting a copy of the original motion along with the following written statement: "I have no objection to this Defendant's immediate release." along with the ASA's signature. The defense attorney shall be responsible for providing copies of the order releasing the defendant to all interested parties in order to secure the defendant's release. If the State does not respond to the motion by 5:00 p. m. the date it is filed, the motion will be set for hearing within 72 hours. The defense attorney shall prepare the Notice of Hearing.

Case Management Conferences

Compliance With AO

The State and Defense shall comply with *Circuit Criminal Administrative Order 2009-1* re procedures and protocol for CMC hearings, including the timely conveyance by the State of a sentencing recommendation to the Defense as well as a *Case Management Certification*.

Appearance At CMC

Appearance at CMC is not required for defendants, defense counsel and ASAs, in cases where a plea offer has been conveyed by the State, presented to the defendant, and a plea hearing has been scheduled or trial stipulation has been submitted by the parties. Defendants who are represented by the Office of the Public Defender or Office of Regional Counsel or a specially-appointed public defender must appear at CMC unless otherwise excused by the Court prior to CMC.

Stipulations for Trial

State and Defense shall confer prior to CMC and select a trial date. The State shall prepare a proposed trial order *prior* to the hearing so avoid taking time in Court to fill in the case style, trial dates, and other information.

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Trial Dockets and Related Proceedings

Deadlines	The deadlines for discovery, depositions, and motions are set forth in the orders setting cases for trial. The parties are expected to comply with these deadlines. The parties may stipulate in writing to change deadlines or seek leave of the Court to change any deadline set forth in the trial order.
Jury Trial Periods	Trial periods are set for two-week periods. All cases shall be ready to pick a jury and proceed to trial the Monday of trial.
Docket Sounding	The purpose of Docket Sounding is to enter a plea or announce that a case is ready to proceed to trial. A defendant's appearance at Docket Sounding is mandatory. No oral motions of any kind will be heard by the Court at Docket
Plea Cut-Offs	The plea cut-off date for all cases set on a trial docket is 5:00 p. m. the Thursday before the trial week. All pleas taken after that time will be straight-up and require a sentencing hearing. No pleas will be taken the Monday of a trial week.
Trial Submission	Trial Scheduling is conducted the Friday before the first Monday of a trial period. The Court will assume that any case remaining on a Trial Scheduling docket is ready to go to trial. Counsel on cases remaining on the Trial Scheduling docket must submit a Joint Trial Scheduling Submission at or before Trial scheduling, including any necessary documents and exhibits that should be attached to the submission. A copy of the Trial Scheduling Submission form is available on the Felony Division 6 website.
Jury Instructions	Prior to Trial Scheduling, the attorneys shall confer and submit a proposed joint set of jury instructions to the Court via e-mail to the Felony Division 6 e-mail address. If there is a disagreement between the attorneys on a particular instruction, each attorney shall submit their own proposed instruction along with supporting authority.
Pleas	When a defendant enters a plea to a new substantive charge or admits to a violation of probation, the Acknowledgement and Waiver of Rights Form must refer to the date the governing Information was filed and the Counts and Charges to which the defendant is entering a plea or the date the affidavit in support of the violation of probation was signed by the officer.

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Score Sheets All score sheets must be completed *in full* (or to the extent possible on a straight-up plea) so that, at most, only the judge's signature will be required.

Violations of Probation/CC and Related Proceedings

Conferences On days where violations of probation (VOPs) are heard, the Court will hear pleas and other non-evidentiary VOP motions in the morning.

Motions to Modify or Term Community Control or Probation All motions to terminate or modify community control or probation must be submitted in writing to the Court prior to a hearing along with statements by the probation officer and Assistant State Attorney stating whether there is an objection to the termination or modification.

It will be up to the pro se defendant or defense counsel to ensure that the proper documents have been secured prior to the hearing or the probation officer will be present to state his or her position. In cases where the probation officer's position is unknown to the Court, the motion will be denied without prejudice.

If there is no objection to a modification from either the State or probation, the Court will enter an appropriate order and no hearing is necessary.

Contested motions to modify or termination probation will be heard at 1:30 pm on VOP days.

For pleas entered after January 1, 2009, the Court will not entertain motions to modify or terminate unless modification or termination was contemplated at the entry of the plea and/or sentencing.

Evidentiary Hearings Evidentiary Hearings for VOPS will be conducted starting at 2:30 pm on VOP days.