



State of Florida
Ninth Judicial Circuit of Florida

KEITH A. CARSTEN
CIRCUIT JUDGE

Osceola County Courthouse
2 Courthouse Square
Kissimmee, Florida 34741
407-742-2678

DEBBIE HAFNER
JUDICIAL ASSISTANT

www.ninthcircuit.org

RULES AND PROCEDURES FOR CIRCUIT CRIMINAL DIVISION 12-A

OSCEOLA COUNTY

Contact

Contacting the Judicial Assistant: The Judicial Assistant, Debbie Hafner is your first and primary contact for Division 12-A matters. You may e-mail the Judicial Assistant for hearing dates and times at the following address: ctjadh1@ocnjcc.org. Responses will be sent via e-mail to confirm that the hearing has been set. If you have a question or need to clarify a procedure, *please do not hesitate* to contact the JA at: ctjadh1@ocnjcc.org. This division prefers email. If you must call, Ms. Hafner's phone number is 407-742-2678. You can expect voice mails to be responded to by the end of the next business day. Please do not both call and email the Judicial Assistant regarding the same request or inquiry. Emails and phone calls after 3:30 p.m. requesting any action by the Court the following morning, will not be entertained.

Contacting the Judge and Information/Requests/Supporting Case Law submitted to the Court:

Judge Keith A. Carsten is not permitted to entertain ex-parte communications. You must cc: the Judicial Assistant on any correspondence to the Judge. The Court may consider materials submitted to the Judge for advance review by stipulation of all parties before a trial or hearing. Any communications, requests to review evidence, or supporting case law submitted after 12:00 p.m. one business day before a hearing or trial, will not be reviewed. Any requests/motions to the Court may be summarily denied if submitted after this deadline.

Division 12-A Courtroom:

Division 12-A matters are held in Courtroom 4-F, on the 4th floor of the Jon B. Morgan Courthouse. Any deviations from this courtroom will be noticed to all parties via email and by placarded signs on the doors of courtroom 4-F with directions.

Division Schedule

Hearing Weeks:

The Court's schedule is usually two weeks of hearings followed by three weeks of trials. During trial weeks, the court has limited time available for bond hearings or emergency hearings, and will be set by the Judicial Assistant, at the sole discretion of the Court, as time becomes available. Cases will be called as they are ready for their assigned time slot and not necessarily in the order they appear on the docket. **However, all cases should be ready to be called at the assigned time.** The earlier you're ready, the earlier your case will be called. If your hearing or plea is called and is not ready, the Court reserves the discretion to unilaterally cancel, grant, deny or reset the matter. Any hearing will be limited to the time that you have requested to hear the motion, so please plan your argument accordingly or be realistic in your estimation of the time necessary for the presentation of evidence and argument of both parties.

Arraignments:

Arraignments are scheduled on the Court's calendar by the Clerk of Court. Arraignments are held on Tuesday, Wednesday and Thursday at 8:30am of each week except on Pre-Trial dates, Violation of Probation status and Violation of Probation hearing dates. Defendants noticed for an Arraignment are required to appear unless represented by an attorney and a Notice of Appearance, Waiver of Arraignment and Written Plea of Not Guilty have been previously filed with the Clerk of Court. Waivers of Arraignment/Appearance filed the same day of Arraignment may not be accepted by the Court.

Jail Video Feed:

Division 12-A can request access to the Osceola County Jail Feed on Wednesday mornings at 8:30 a.m. Jail Arraignments, pleas, short hearings can be entertained at this time. Please ensure the inmate plea forms are completed in advance. Requests for hearings through the jail feed must be made with the Judicial Assistant by the Monday of the requested hearing by 12:00 p.m.

Pre-Trials:

Pre-Trials with private counsel and Regional Conflict counsel are held on Tuesdays of the first hearing week and scheduled at 9:00am. Cases assigned to the Ninth Circuit Public Defender's Office will normally be held on Wednesday of the first hearing week. The Judge will take the bench at 8:45 am and accept "early walk ins" from attorneys in the order they arrive.

All attorneys and defendants are required to be present unless a Waiver of Appearance at Pre-Trial has been previously *filed and signed*** by the Defendant. Failure to follow this procedure may result in an arrest warrant for a Defendant for failure to appear at the hearing.**

Any attorney of record, as well as any Assistant State Attorney or Assistant Statewide Prosecutor, may appear virtually for Pre-Trial if provided a video link by the Judicial Assistant. *****The Court has comprehensive instructions and pleadings required for virtual appearance by Microsoft Teams that the attorney will be expected to read and follow. Please refer to the "Instructions for Virtual Pre-Trials" document for specific instructions regarding virtual appearance at Pre-Trial. This document is provided by the**

Judicial Assistant by email to all attorneys in advance of the hearing.***

Private attorneys who appear in Court will be asked to sign in and their cases will be called in the order of their appearance. The Court will alternate between live and online attorneys in the order they appear. Assistant Public Defenders Pre-Trial cases will be called in the order the Defendant's cases are ready to be addressed. The Court prefers to complete Pre-Trial hearings for the entirety of each Assistant Public Defender's assigned cases in turn. Attorneys shall address any potential attorney and witness conflicts that they are aware of on the upcoming Trial docket with the Court at the Pre-Trial Conference. **Inmates will not be brought to court for Pre-Trial.** The Court will do its best to accommodate pleas on Pre-Trial days, but these pleas will occur at the end of the Pre-Trial docket. The Court may also provide alternate available plea dates if requested.

Trial Periods:

Trials periods are usually three weeks in length. The Court will attempt to accommodate attorney availability, witness availability, and other requests stated at Pre-Trial, but the Court may not be able to accommodate every request. All Attorneys will receive, via e-mail, the "Trial List" by the end of business on the Monday following Pre-Trial. It is the attorney's responsibility to keep a current email address on file with the Clerk. The email from the Court will constitute service for you and your client's appearance. Should you not receive an email assigning your case a specific date by 5:00 p.m. the Monday following the Pre-Trial, it is the Attorney's responsibility to contact the Judicial Assistant to confirm the day the case will be called for Trial. The list will assign Trials for specific days within the trial period. Cases are listed alphabetically and not necessarily in the order of they will be called. Failure to appear at trial on the assigned day could result in a warrant for your client. Trial days are reserved for Trial. Pleas on the morning of trial are not encouraged, but the Court understands that the posture of the case can change rapidly as the parties prepare for Trial. Please make an effort to make and review best and final plea offers prior to the morning of Trial. The Court may set a deadline for the acceptance of any negotiated plea offer. After that date, the Defendant may still resolve the case with the Court. During a plea to the bench, the Court has no unilateral authority to dismiss or amend charges filed by information or indictment.

Violation of Probations:

Violations of Probation will be given a plea/status date and a hearing date. The plea/status date is an opportunity to resolve a defendant's VOP or discuss the case with the Court. If there is no resolution to the case by the assigned plea/status hearing, the VOP will be set for a hearing on the following hearing date which will be approximately five to six weeks later. The Court may set a deadline for the Court's acceptance of any negotiated resolution. After that date, the Defendant may still resolve the matter with the Court. VOP hearing dates are for VOP hearings only. The Court will not entertain negotiated pleas on the VOP hearing date absent extraordinary circumstances.

Motions/Hearings/Interpreters

Evidentiary Hearings:

Any evidentiary hearings will be held in conformity with the trial orders. Motions filed or hearings requested outside of the time periods outlined in the trial orders may not be set for hearing and may be summarily denied.

Request for Hearing Dates and Times:

All motion hearings must be coordinated with the Judicial Assistant. Requests for hearing time, including “emergency motions” will not be entertained if requested via telephone or email after 12:00 p.m. one business day before the day of the requested hearing. Expedited “emergency” motions will be set at the sole discretion of the Court. The original Motion must be e-filed with the Clerk’s Office before you contact the JA for hearing dates and times. Do not copy the JA when **e-filing Motions, Orders or Documents**. When requesting a hearing date, please e-mail the Judicial Assistant and have the Defendant’s name, case number, the next scheduled court date and the amount of time required for the hearing. It is the responsibility of the moving party setting the hearing to coordinate the hearing date and time with opposing counsel. If you secure hearing time in court, you are representing that you have coordinated with opposing counsel. Once a hearing date has been secured with the Judicial Assistant, she will confirm the hearing date and time in an e-mail. It is then your responsibility to file an original Notice of Hearing with the Clerk’s Office (physically or by e-file). A copy of the Notice of Hearing is not required for the Judge.

If the Motion requires longer than **1 hour** you must indicate either by cover letter or e-mail the requested required amount. The Judicial Assistant will not set a hearing for more than **(1) hour** in duration without prior approval from Judge Carsten.

Unopposed Motions and Orders:

If your Motion is unopposed, you may submit a hard copy of the Motion and Order. In the proposed order, please title the order “Unopposed Order Granting” We do not receive any notice of e-filed documents and we will not print a document from any e-filed email. If after reviewing the unopposed Motion, if the Court declines to sign the unopposed order or determines that a hearing is needed, the moving party will be notified of the denial or contacted so a hearing can be scheduled and coordinated.

***** REMINDER: All Motions that are stipulated by all parties or are unopposed must be accompanied by a proposed Order sent to chambers titled “Unopposed order granting...” *****

Motions for a Continuance: If a Continuance is requested, the **written** Motion for Continuance and Order must be filed previously e-filed in conformity with the virtual pretrial rules, be filed in advance with the Clerk, or be physically presented to the Judge or trial clerk the day of Pre-Trials at the time of the request. The Motion must also include the State Attorney’s position and include a **signed** “Waiver of Speedy Trial” **by the Defendant** if not previously waived. All defense attorneys should have a form Order of Continuance to present to the Court at Pre-Trials if the motion is made at Pre-Trial. After the Judge signs the order, a new Pre-Trial and Trial date will be filled in on the order and e-filed noticing all parties.

Waivers of Appearance of Clients for Arraignment, Pre-Trial Hearings or Status Hearings:

Written waivers of appearance for represented clients at Arraignment, Pre-Trial hearings, or Status hearings will be honored by the Court if a written waiver, **signed by the client** is filed in the court file no later than 3:00 p.m. one business day before the hearing. Waivers of a client’s appearance filed after this deadline may be summarily denied, and may result in a warrant for non-appearance. Any deviations to this policy will only be made by the Court on the record or in writing by the Judicial Assistant.

Motions for Bond/Motions to Quash Capias for Non-Appearance:

Motions for bond on a Violation of Probation or new law offense warrant cases, will not be set or considered before the execution and arrest of the Defendant on the warrant. Deviations to this policy will only be made on a case by case basis and at the sole discretion of the Court.

Motions to quash a capias warrant for non-appearance require a hearing, and the appearance of the Defendant is required at the hearing. It is likely the motion to quash capias will be denied if the client is not present, has a history of non-appearance, or is late to the hearing. The setting of a motion to quash warrant prior to the warrant being executed will be set at the discretion of the Court upon an evaluation of the request, including but not limited to how long the warrant has remained outstanding.

Interpreter Request:

If the Defendant or a witness requires an interpreter for an evidentiary hearing or trial, the JA must be notified in writing as soon as possible and prior to any evidentiary hearing or trial. You must provide the Defendant's name, case number, scheduled hearing date and the language required. There are simply not enough interpreters to accommodate a last minute interpreter request prior to the hearing or trial.

Hearing and Trial Cancellations:

Please notify the Judicial Assistant immediately if a hearing is cancelled or has been stipulated to by the State Attorney. It is the responsibility of the moving party to file a Notice of Cancellation in the Court file. It is also the responsibility of the moving party to notify all parties of the cancellation. The Court reserves the right to cancel or reset any hearing where the Defendant appears to be suffering from a mental issue or under the influence of alcohol, medication, or an illegal substance to the extent that their normal faculties are impaired. Defendants who appear impaired in Court may be drug tested at the order of the Court.

Competency Concerns:

Please file any concerns regarding a Defendant's competency as soon as you can ethically do so.

Conflict of Interests:

Please evaluate clients for any potential conflicts as soon as possible. The late certification of a conflict of interest because of a lack of diligence on behalf of the attorney is likely to be discussed in open Court.

Pleas and Plea Hearings

Plea Offers:

The parties must participate in plea negotiations at the earliest opportunity. If the State intends to extend a plea offer, it must do so no later than 2 business days before the Pre-Trial or the Violation of Probation Status hearing. Defense counsel shall immediately communicate all plea offers received from the State to

their client. The prompt transmission of plea offers to incarcerated clients is the responsibility of the defense counsel.

Plea Paperwork:

The Court understands plea negotiations may be fluid. However, the Court will expect parties have plea forms, scoresheets, restitution orders and cost orders completed before the scheduled plea time absent unusual circumstances. If your client is in custody, please make an effort to review and complete the plea form in advance downstairs in the Courthouse or at the Jail, if possible.

Plea Negotiations:

The Court is restricted from interjecting itself in plea negotiations. The Court will be happy to discuss its thoughts on the terms of suggested plea agreement if invited by **all** parties to do so. Please be mindful of the time limitations on the Court. A request for a Plea Conference may not be able to be accommodated on a busy hearing day or in the middle of Pre-Trials.

Downward Departures/Rejection of Plea Offers:

The Court will expect the basis for any recommended downward departure to be discussed with the Court by the parties on the record. The Court has the right to accept or reject any negotiated plea resolution. The Court will offer an explanation with the parties on the record as to any rejected plea agreement, and allow the Defendant to withdraw his plea should the Court disagree with the proposed resolution.

Inmate Plea Hearings:

Jail plea hearings may be requested on Wednesday by video feed if the Defendant's plea paperwork has been completed in advance and tendered in open Court at the time of the plea hearing. Transport of inmates for a plea hearing must be coordinated with the Judicial Assistant by 12:00 p.m. one business day before the requested hearing date.

Plea Offers which will result in the release of an inmate:

The fact that a plea offer that will effectuate the release of an inmate in of itself may not constitute a basis for an "emergency" hearing. The Court will make reasonable efforts to efficiently set all pleas.

Victim input at Plea hearings:

Assistant State Attorneys will make a good faith effort to discuss any resolution of a case involving a victim with the victim prior to tendering the plea offer. Assistant State Attorneys who know in advance that a victim will be giving a victim impact statement at the time of a plea shall inform the Judicial Assistant in advance of the plea hearing and request the time necessary for presentation of the statement.

Entitlement to Pre-Sentence Investigation:

Request for a Pre-Sentence Investigation will be deemed to be waived unless specifically requested prior to any sentencing following a plea or jury verdict.

Plea to an amended information:

Notice requirements or defects in an Amended Information to facilitate a plea will be deemed to be waived unless specifically raised at the time of the plea.

Courtroom Decorum

Attorney Promptness and Absences from the Courtroom:

It is unfortunate this issue must be memorialized in writing. Attorneys must be on time for their cases as set on the weekly, daily, and add on dockets. All attorneys will be required to give the Court advance notice of any absences from the courtroom, except in cases of emergency. Unless excused by the Court, cases will be called as scheduled and the attorney is responsible for having coverage counsel arranged if they are unable to be in Court. If you are aware you will be late, please personally email or have your staff email the Judicial Assistant as soon as you become aware you will not be on time. The Court understands attorneys may have to be in multiple courtrooms at one time. Please extend the Court the courtesy of letting us know your issue in a timely fashion, and this division will return that courtesy by attempting to reasonably accommodate your schedule. Please be aware that very few court hearings are considered a priority over Circuit Court trial calls or hearings pursuant to administrative order.

Pursuant to Florida Bar Standards of Professionalism, Professional Courtesy and Courtroom Decorum, this division will expect that parties will comply with the following:

1. Stand when Court is opened, recessed or adjourned. Stand when addressing, or being addressed by the Court. Stand when the jury enters or retires from the courtroom.
2. Address all remarks to the Court, not to opposing counsel or the opposing party.
3. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
4. Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names unless the permission of the Court is sought in advance.
5. Only one attorney for each party shall examine, or cross examine each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination.
6. Counsel should request permission before approaching the bench. Any documents counsel wishes to have the Court examine should be handed to the clerk. Any paper or exhibit not previously marked for identification should first be handed to the clerk to be marked before it is tendered to a witness for his

examination; and any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.

7. No exhibit, whether marked for identification or not, shall be held in any manner, or placed in any position in the courtroom, that would allow the trier of fact to see the exhibit unless it has been admitted into evidence and permission to publish the exhibit to the jury has been obtained from the Court.
8. In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the Court.
9. When examining a witness, counsel shall not repeat or echo the answer given by the witness.
10. Offers of, or requests for, a stipulation should be made privately, not within the hearing of the trier of fact.
11. In opening statements and in arguments to the trier of fact, counsel shall not express personal knowledge or opinions concerning any matter in issue.
12. Counsel shall admonish all persons at the counsel table who make gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time. This behavior is strictly prohibited.
13. All parties, attorneys and witnesses should refrain from interrupting or talking over one another.
14. Counsel shall refrain from attempting to make a re-argument after the Judge has ruled.
15. Counsel shall complete resolution negotiations and advise clients of their settlement options in advance of court hearings.
16. No tobacco use in any form is permitted. Defendants shall have no bottles, beverage containers, paper cups or edibles are allowed in the courtroom, except as permitted by the Court. Attorneys assigned to the division may have reasonable drink containers subject to security concerns. No gum chewing is permitted by any party.
17. Cell phones and pagers should be turned off or in a vibrate mode. Computers should be used with audio off. No party may video or audio record any court proceeding.
18. All counsel shall provide a copy of this policy to clients prior to coming to court.
19. No children are allowed in the courtroom, waiting area or adjacent hallway without prior approval of the court, unless the child(ren) is a party to the action.

Repeated violations of the Courtroom Decorum expectations by an attorney member of the Florida Bar may result in a request for intervention from office supervisors, referral to the Orange County Professionalism Committee or, in extreme cases, a formal Florida Bar grievance filing from the Court.

Virtual/Remote Appearance of Any Party:

This Court expects all attorneys and parties to a case to be physically present in the courtroom for all assigned Court hearings. Under certain circumstances, as outlined in the Pre-Trial instructions, or at the discretion of the Court, the Court may allow virtual appearances (through “Teams” or any other comparable video system) of any party (including Defendants) for any matter short of trial. The granting of a Defendant’s appearance by virtual appearance will be rare and at the sole discretion of the Court upon a demonstration of good cause. Appearances of mental health professionals at evidentiary competency hearings will be routinely granted after reasonable request of either party. Virtual appearance of any attorney will be considered on a request by request basis. Any attorney requesting virtual appearance, including Assistant State Attorneys and Assistant Public Defenders, shall make the inquiry to appear remotely in advance in an email to the Judicial Assistant. Receipt of a video link from the Judicial Assistant will constitute approval of virtual appearance by the Court. Objections to the video appearance of any party shall be made in writing at the time opposing parties are noticed of the Court approval of a virtual appearance. Emergency requests for illness or unforeseen circumstances will be considered by the Court upon a demonstration of need.

Virtual Appearances for trial will not be granted for any party absent stipulation by opposing counsel and a showing of extraordinary circumstances.

If the Court/JA is not Available

When the Judge or JA is unavailable: The Court has back-up Judges and an Administrative Judge to assist in cases of emergency during my personal absences or illness. Please attempt to contact my JA prior to contacting another division. She will make an effort to help you find a solution. Administrative Order 07-84-11 contains the procedure to follow in case of emergency.

The order reads in part:

“If the judge to whom a particular matter is assigned is not available by being present where s(he) holds court during normal working hours of a weekday that the courts are open, that matter shall be heard by that Judge’s alternate if s(he) is available by being present where s(he) holds court.”

My alternate Judges are Judge Mikaela Nix- Walker and Judge Tom Young. Judge Nix-Walkers JA is Keishara Goodrum ctjakg3@ocnjcc.org (407) 742-2548. Judge Young’s JA is Vikki Cooper ctjavcl@ocnjcc.org at (407) 742-2516.

“If neither the Judge to whom the emergency matter has been assigned nor their alternates are available where they hold court during normal working hours of a weekday that the courts are open, the emergency matter shall be heard by the emergency duty Judge or by any other Judge that may be available by being present where s(he) holds court.”

“Emergency matters occurring after 5:00PM on weekdays and any emergency matters occurring during weekends or during weekdays that the courts are closed shall be heard by the emergency Judge.”

The emergency duty judge is assigned weekly on a rotating basis. The current emergency duty judge can be ascertained here: <https://ninthcircuit.org/about/divisions/criminal-circuit-court/signing-judge-schedule>

Please restrict your efforts to have Division 12-A matters heard out of the division to true “emergencies” and we will do our very best to help. Understand that what you feel is an “emergency” may not be considered an emergency by the Court, the JA, or the backup Judges or their JA’s.

Our office hours are Monday – Friday from 8:30am - 12:00pm and 1:30pm – 5:00pm. If you reach our voice mail during the work day, the JA has been called away from her desk to assist the Judge, attend Pre-Trials, make copies, etc. If you have a question about a case or need to schedule a hearing, please email the Judicial Assistant, Debbie at cjadh1@ocnjcc.org. Your email will be answered in the order it was received as soon as possible. ***The office is closed from 12:00pm – 1:30pm. Please do not call and leave a voice mail message during this time.***

Please note:

These procedures apply to **Judge Keith A. Carsten only**. Any Assistant State Attorneys and Assistant Public Defenders assigned to Division 12-A are expected to read and comply with the foregoing prior to their appearance in the division. It is recommended that you refer to the procedure of each Judge or contact the Judicial Assistant in the division for instructions. If you have a question as to the Court’s preference regarding Court procedure, please email the Judicial Assistant.

It is our goal to be accessible to you and answer your inquires. The Judge and Judicial Assistant strive to be prepared, efficient, courteous to you and your clients, and allow you the time you need to present your legal position within reason. In order to fairly and efficiently afford justice to all parties, the Court relies on (and therefore must insist on) the professionalism, promptness and preparedness of Assistant State Attorneys, Assistant Public Defenders, private counsel, clerk staff, interpretive staff, court reporting staff, jail personnel, Department of Corrections staff, law enforcement agencies and Osceola County agencies. While no written instructions can contemplate all possibilities, we hope following these guidelines will help you have predictable and consistent experience in Division 12-A.

Thank you. Keith Carsten and Debbie Hafner

Done and Ordered



6/21/22

Keith A. Carsten
Circuit Court Judge, Ninth Judicial Circuit, Division 12-A

The Court reserves the right to revise the rules and procedures with notice as circumstances dictate.

Revised: June 21, 2022