

RE: COVID-19 MITIGATION PROCEDURES FOR CASE MANAGEMENT CONFERENCES

On May 4, 2020 The Florida Supreme Court issue Administrative Order AOSC20-23 Amendment 1 In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts. This Administrative Order expanded the types of cases that were authorized to be conducted using available technology/remotely. The proceedings now authorized to be held remotely include (a) status, case management, and pretrial conference in all case types and (b) non-evidentiary and evidentiary motion hearings in all case types. AOSC20-23 Amendment 1 Sec. III C (2) & (3)

Pursuant to AOSC20-23 Amendment 1, This Court shall begin holding Case Management Conferences (CMC) through the use of remote appearances.

This Court notes that AOSC20-23 Amendment 1, has added CMC, pretrial conferences and status conferences as non-essential and non-critical court proceedings. This means that while these types of court proceedings can be conducted, when conducted they “shall be conducted using telephonic or other electronic means available...” AOSC20-23 Amendment 1 Sec. III C

CMC PROCEDURE

Intent of Procedures

Consistent with the Executive Orders of the Governor of Florida, Administrative Orders of the Supreme Court of Florida, and Procedural Memorandum of the Chief Judge of the 20th Judicial Circuit, the procedures set forth herein are intended to “mitigate the impact of COVID-19, while keeping the courts operating to the fullest extent consistent with public safety.”

General Procedures

All CMC's will be conducted remotely utilizing the Zoom app.

The Court will conduct a CMC docket for private defense attorneys and a separate CMC Docket for Public Defender cases. There will not be a distinction made between in-custody and out of custody defendants.

The Private Attorney CMC will be further broken down alphabetically by attorney last name. A range of time to appear will be set based upon the private attorney's last name. The Zoom link and the appearance time schedule can be accessed via Judge Burns' profile page on the 20th Judicial Circuit web page.

The Public Defenders remote CMC will be called via defendant's last name.

At the CMC the court will make inquiry as to the status of the case and the progress of the case. This includes but is not limited to: if the State has made a plea offer in the case, if the attorney for the defendant has conveyed the States plea offer to the defendant, if all discovery has been furnished, what if any discovery still needs to be conducted, if there are outstanding discovery issues how long the parties anticipate it will take to resolve those issues, if there are any pre-trial motions that need to be addressed, if pre-trial motions are anticipated have they been filed, if not when will they be filed.

If the case is not resolved at CMC, or if the parties do not anticipate the case can be resolved the Court will set the case for trial according to the Courts existing trial procedure. At the present time all jury proceedings, jury selection, and jury trials are suspended through July 2, 2020. AOSC20-23 sec. III A.

In-custody Defendants

The procedure for the appearance of in-custody defendants for CMC will remain largely unchanged from the procedure in effect prior to the COVID-19 pandemic.

In-custody defendants shall appear remotely from the Charlotte County Jail via the jail CCTV system. Attorneys for in-custody defendants shall appear remotely.

The Court will schedule and conduct remote CMC's via Zoom meeting. The specific meeting time will be set according to attorney last name for private attorneys and in a singular time block for public defender cases. The specific time schedule for these meetings and the link for these meetings will be posted under Judge Burns' profile on the 20th Judicial Circuit Web page.

If there are any questions regarding specific procedures for accessing the CMC Zoom meeting contact Judge Burns' judicial assistant prior to the meeting.

The Court will accept negotiated pleas at the time of the CMC. The procedure for the acceptance of a negotiated in-custody plea at CMC's will largely be the same as the procedure in effect prior to the COVID-19 pandemic.

In-custody defendants entering a plea at CMC shall do so remotely. At the time of the acceptance of the plea the defendant must have been presented with, read, understood and executed a plea form/waiver of rights form and a waiver of personal appearance form.

Out of Custody Defendants

Attorneys for out of custody defendants are strongly encouraged to file a written waiver of appearance. This written waiver of appearance will aid the Court in determining that defense counsel has continued and ongoing contact with the defendant.

In the absence of a written waiver of appearance the Court will presume that the defendant's remote appearance before the court is waived for purposes of COVID-19 CMC's.

Out of Custody CMC's will be conducted remotely utilizing the Zoom app. Attorneys and the defendant(if the defendant appears) shall appear only via remote appearance.

The Court will schedule and conduct remote CMC's via Zoom meeting. The specific meeting time will be set according to attorney last name for private attorneys and in a singular time block for public

defender cases. The specific time schedule for these meetings and the link for these meetings will be posted under Judge Burns' profile on the 20th Judicial Circuit Web page.

The Court will accept negotiated non-incarcerative pleas at CMC for out of custody defendants.

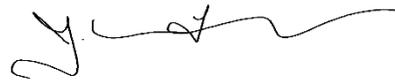
Out of Custody negotiated pleas can be effectuated either as (a) a plea in absentia pursuant to this Courts previous order outlining pleas in absentia during the COVID-19 pandemic or (b) as a remote plea in absentia.

In a "remote plea" the defendant and his/her counsel will appear remotely via Zoom, the defendant will have executed a plea form and a waiver of personal appearance/agreement to be sentenced remotely form, prior to the acceptance of the plea. These forms must be filed in the court file prior to the acceptance of the plea.

Time Frame

The procedures outlined in this order shall remain in effect through July 2, 2020; or until superseded or terminated by the issuance of subsequent COVID-19 Mitigation orders of this Court or of the Florida Supreme Court.

DONE AND ORDERED THIS 13th day of May, 2020 in Chambers, Charlotte County Justice Center, Punta Gorda, FL



Hon. John L. Burns
County Court Judge
Charlotte County Florida
20th Judicial Circuit

Cc:
Office of the State Attorney
Office of the Public Defender
Charlotte County Court Admin.

Clerk of Courts, Criminal Division
Posting to Judge Burns 20th Circuit Web Page
Charlotte County Bar Assoc.

