

Criminal Court Policies – Judge Hankinson

The following is some information as to procedures to be followed reference criminal matters before Judge Hankinson:

A. Presence of Defendants

1. Non-Custody

Defendants presence is mandatory for all proceedings.

Although, the Court prefers that defendants be present at all proceedings, the Court authorizes counsel to waive their clients appearance at case management conferences. No court authorization/order is required. The Court will expect counsel to make the Court aware of any defendants that are not keeping appropriate contact with counsel. Attendance by defendants at plea and pretrial conferences is mandatory. Requests for Defendants to be excused from pleas or pretrial conferences must be by written motion and approved by court order. A courtesy copy of the filed motion and a proposed order should be submitted directly to the Court. A form waiver of appearance is included in this web site. Use of the form waiver of appearance is encouraged as part of your motion to waive defendants' presence.

2. In Custody

Defendants are not automatically transported for case managements. If the attorney wants a defendant transported for case management, a request must be made to Kathy Waller, Deputy Clerk, not later than 5:00 p.m. the day before the proceeding. Defendants will automatically be transferred for

pretrials, pleas and trials.

B. Pleading Practices

Original motions by represented parties are not routinely passed on to the Court by the Clerk. If the party believes that the motion can be resolved without a hearing, a courtesy copy of the filed motion and a proposed order should be submitted directly to the Court. Every effort should be made to include the opposing parties position in the motion. Motions will rarely be ruled upon without hearing unless the motion includes the opposing parties position.

The Court seldom takes matters under advisement. The Court will review all motions prior to the hearing. Therefore, it is very helpful to provide the Court with relevant case law (or memorandum of law) at least 24 hours prior to the hearing. Case law submitted at a hearing will be considered, but is of less persuasive influence.

C. Miscellaneous Preferences

1. The Court will not accept negotiated pleas for a suspended sentence.
2. Furloughs are highly disfavored and will be rarely granted.
3. Turn in dates are also discouraged. Turn in dates will be accepted under appropriate circumstances, but only if there is an enforcement mechanism that would authorize an increased sentence, if the defendant fails to turn himself in as agreed. Generally, this will involve setting sentencing off or making the turn in date a condition of probation.

D. Motions To Withdraw

The following procedures apply to motions to withdraw from a case remaining set for trial after pretrial (in other words, after counsel

has announced ready for trial). This procedure applies to all attorneys, including Assistant Public Defenders, Regional Counsel, appointed and retained private counsel.

1. An actual motion setting out the circumstances of the case and the reason for the request or conflict needs to be filed (do not just submit a form motion);
2. The motion needs to reflect the position of the assigned Assistant State Attorney (ASA);
3. A hearing needs to be set. The Court will decide if a hearing is necessary given the facts of the case and the position of the ASA. However, do not assume a hearing is unnecessary just because the ASA does not object.
4. Arrangements need to be made to have the client present and any other clients causing or involved in a potential conflict. The Court may wish to explore a waiver of the potential conflict with the affected client.
5. Any orders inadvertently signed contrary to this procedure will be immediately rescinded.

Motions For Substitution Of Counsel

Counsel is not recognized as attorney of record until a motion for substitution of counsel has been filed and granted by the Court. Therefore, new counsel will not receive notice of any proceedings until an order has been signed. As indicated above (B.), a courtesy copy of the motion for substitution of counsel with a proposed order (and the appropriate numbers of copies) should be submitted directly to the Court. Failure of counsel to properly follow through with being substituted as counsel will not be a valid basis for a continuance.

Continuances

The fact that opposing counsel has agreed or stipulated to a continuance does not necessarily mean that the Court will grant a continuance. Counsel should not cancel witnesses, advise client not to attend proceedings or fail to appear in Court until an order of continuance has been signed.

Hearings

Hearings will not be set until a motion is filed. Short hearings (30 minutes or less) can be set at 8:30 A.M. or 1:30 P.M. Longer hearings will be set at 3:00 P.M. Generally, hearings will be scheduled on the assigned prosecutors' day. On occasion, longer hearings may need to be set on different days if the assigned prosecutors' hearing time is full. Longer hearings must be set through my judicial assistant at 606-4320. Short hearings may be set in open court, through Kathy Waller, Deputy Clerk, or through my judicial assistant.