

**AMENDED ORDER GOVERNING THE CRIMINAL CASE MANAGEMENT PLAN
FOR THE NINTH JUDICIAL CIRCUIT**

WHEREAS, Florida Rule of Judicial Administration 2.215 provides that the Chief Judge shall exercise administrative supervision over all courts within the Judicial Circuit and the Chief Judge is charged with the responsibility of developing an administrative plan for the efficient and proper administration of all courts within the circuit; and

WHEREAS, pursuant to Florida Rule of Judicial Administration 2.215, the administrative plan shall include an administrative organization capable of effecting the prompt disposition of cases; control of dockets; and the mandatory periodic review of the status of the inmates of the county jail; and

WHEREAS, pursuant to Florida Rule of Judicial Administration 2.545(a), judges and lawyers have a professional obligation to conclude litigation as soon as it is reasonably and justly possible to do so; and

WHEREAS, Florida Rule of Judicial Administration 2.545(b) provides that the trial judge shall take charge of all cases at an early stage in the litigation and shall control the progress of the case thereafter until the case is determined; and

WHEREAS, Florida Rule of the Judicial Administration 2.545(e) provides that all judges shall apply a firm continuance policy. Continuances should be few, good cause should be required, and all requests should be heard and resolved by a judge. All motions for continuance shall be in writing unless made at trial and except for good cause shown, shall be signed by the party requesting the continuance; and

WHEREAS, Florida Rule of Judicial Administration Rule 2.250 provides that the following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial courts of this State. It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. However, most cases should be completed within the following time periods: Felony - - 180 days (arrest to final disposition); and Misdemeanor - - 90 days (arrest to final disposition); and

WHEREAS, the purpose of the courts and the criminal case process is to:

1. Provide individual justice in individual cases;
2. Instill public confidence that justice is provided in individual cases;
3. Provide a forum for the resolution of legal disputes;
4. Protect against the arbitrary use of government power;
5. Make a formal record of legal status;
6. Deter criminal behavior;
7. Help rehabilitate persons convicted of a crime;
8. Separate persons convicted of serious offenses from society; and

WHEREAS, the American method of ascertaining the facts - the adversary system - is memory dependent which diminishes with time; the longer the period between the commission of an offense and the trial or other case disposition, the less reliable the fact-finding process. When delays are lengthy, citizens lose confidence in the courts and question their capacity to find facts and apply the law consistently and fairly. Delay makes it more difficult to accomplish each of the eight central purposes listed for the criminal case process;

NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, adopt the Ninth Judicial Circuit Criminal Case Management Plan to become effective **nunc pro tunc to March 8, 2004**.

CRIMINAL CASE MANAGEMENT PLAN

I. GOALS OF PLAN:

The Criminal Case Management Plan is designed to reduce and avoid unnecessary delay in the criminal process and to enhance the cost-efficiency and the quality of criminal justice in Orange and Osceola Counties. The goals of this plan include, but are not limited to, the following:

- * To adopt a court wide policy limiting continuances.
- * To adopt trial court time standards requiring that criminal cases progress from initiation to conclusion in a timely fashion.
- * To adopt a policy identifying appropriate criminal cases for plea disposition.
- * To promote accountability of the courts in the management of the criminal case process.

II. CONTINUANCE POLICY:

The Florida Rules of Judicial Administration provide that all judges shall apply a firm continuance policy. Therefore, a circuit wide policy is hereby adopted limiting continuances to reduce delay as well as unnecessary costs associated with delay, and to implement the intent of the Florida Rules of Judicial Administration and the Florida Rules of Criminal Procedure. Unless waived by the Court for good cause shown, every motion to continue shall:

1. Be in writing in the form of a motion;
2. State with particularity the grounds upon which relief is sought. Such grounds must constitute good cause;
3. Be signed by the party seeking relief and signed by the attorney of record;
4. Be recorded in the case file and in the Court's automated case management information system.

In order to avoid last minute delays due to withdrawals by the Office of the Public Defender for the Ninth Judicial Circuit for conflicts of interest cases, the Office of the Public Defender is required to check for conflicts in assigned cases within five (5) days of each of the following events: appointment to represent an individual, arraignment, and receipt of discovery. In the event of a conflict of interest, the Office of the Public Defender shall immediately submit a written motion to withdraw to the trial judge and in absence of the trial judge, to the administrative judge of that division.

In order to avoid last minute delays due to withdrawals by the Office of Criminal Conflict and Civil Regional Counsel for the Ninth Judicial Circuit for conflicts of interest cases, the Office of Criminal Conflict and Civil Regional Counsel is required to check for conflicts in assigned cases within five (5) days of each of the following events: appointment to represent an individual, arraignment, and receipt of discovery. In the event of a conflict of interest, the Office of Criminal Conflict and Civil Regional Counsel shall immediately submit a written motion to withdraw to the trial judge and in absence of the trial judge, to the administrative judge of that division.

III. TIME STANDARDS:

The following time standards are hereby established as a presumptively reasonable time period for the commencement of trial or disposition by non-trial means. It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. However, most cases should be set for trial or disposed of within the following time periods:

A. Felony:

- * Track "A" cases should have trial commencement or disposition by non-trial means within 90 days from arraignment; Track "A" cases include:

- a. Drug Cases:
 - 1. Possession of Controlled Substances
 - 2. Delivery of Controlled Substances
 - 3. Possession with Intent to Sell or Deliver a Controlled Substance
 - 4. Cultivation of Cannabis

- b. Theft, Forgery, and Fraud Cases:
 - 1. Grand Theft Third Degree
 - 2. Dealing in Stolen Property
 - 3. Forgery
 - 4. Uttering Forgery
 - 5. Welfare Fraud
 - 6. Obtaining Unemployment Compensation by Fraud

- c. Worthless Check Cases

- d. Burglary:
 - 1. Burglary of a Conveyance
 - 2. Burglary of a Structure

- e. Other Crimes Against Property:
 - 1. Armed Trespass to Property
 - 2. Trespass to a Designated Construction Site
 - 3. Criminal Mischief

- f. All other third degree felonies, unless otherwise enumerated herein

* Track “B” cases should have trial commencement or disposition by non-trial means within 120 days after arraignment; Track “B” cases include:

- a. Robbery
- b. Armed Burglary
- c. Carjacking
- d. Home Invasion Robbery
- e. Burglary of a Dwelling
- f. Aggravated Assault
- g. Aggravated Battery
- h. Aggravated Child Abuse
- i. Trafficking in Controlled Substances
- j. All other second degree felonies, unless otherwise enumerated herein.

- * Track “C” cases should have trial commencement or disposition by non-trial within 150 days after arraignment: Track “C” cases include:
 - a. Sexual Battery
 - b. Child Sexual Offenses, other than capital sexual battery
 - c. Second Degree Murder
 - d. Manslaughter
 - e. Third Degree Murder
 - f. All other first degree or life felonies, unless otherwise enumerated herein.

- * Track “D” cases should have trial commencement or disposition by non-trial within 170 to 545 days after arraignment: Track “D” cases include:
 - a. First Degree Murder
 - b. Capital Sexual Battery
 - c. RICO cases
 - d. Other Complex cases

- * Track “E” cases should have trial commencement or disposition by non-trial within 120 to 180 days after arraignment: Track “E” cases include:
 - a. Violation of probation with new law violation qualifying for designation under the Anti-Murder Act. Trial commencement or disposition shall include both the violation of probation and the new law violation.

B. Misdemeanor:

All criminal misdemeanor cases should have trial commencement or disposition by non-trial means within 90 days after arrest.

C. Violation of Probation:

- * Violation of probation cases, including both technical and substantive violations, shall be heard within 30 days after arrest.

IV. PRETRIAL CONFERENCES:

Pretrial conferences need to be a meaningful event in case processing. To make pretrial conferences meaningful:

1. All plea offers or non-plea offers i.e. that no plea offer is forthcoming shall be communicated by the Office of the State Attorney to defense counsel at least three (3) working days prior to pretrial conference.

2. Defense counsel is required to communicate the plea offer or non-plea offer to the client by the time of pretrial conference.

V. REPORTING REQUIREMENTS:

In order to facilitate the Case Management Plan and to promote accountability, monthly or other periodic reports shall be generated for each criminal court division listing the number of continuances requested, party requesting the continuance, reasons given for the requested continuance, and whether the continuance was granted or denied. These reports shall be generated from data kept by the Clerk of Court for Orange County and the Clerk of Court for Osceola County (hereinafter referred to as "Clerk of Court").

The Clerk of Court shall generate monthly reports no later than the fifteenth of the month, for the each preceding month, setting forth the data mentioned in the above paragraph. The Clerk of Court shall provide these reports to the Fiscal Services Analyst under Court Administration who shall provide copies of the report to the Chief Judge, to the Administrative Judge for Osceola County, to the Administrative Judges of the Circuit Criminal and County Criminal Divisions, and to the Judges assigned to the Circuit and County Criminal Divisions.

VI. FORMS:

In order to accurately store and reproduce the data generated by the Clerk of Court, a form motion to continue must be used by any party requesting a continuance. The form motion to be substantially complied with is attached to this Administrative Order as Attachment "A". Additionally, a form Order Granting/Denying the Motion to Continue must be used in each division of the criminal court in order to insure that the Clerk of Court keep reliable statistics, by division, of continuances requested and granted or denied. The form Order Granting or Denying the Motion to Continue is attached to this Administrative Order as Attachment "B". If the court is unable to try a case within the trial period and therefore resets or rolls the case to a different trial period, the court shall use the form order attached as Attachment "B" and shall note on the order that the case is continued because the court is unable to try the case within the current trial period.

Administrative Order No. 2004-04-2 is vacated and set aside and has been incorporated and/or amended herein.

DONE AND ORDERED at Orlando, Florida, this 1st day of August, 2007.

_____/s/_____
Belvin Perry, Jr.
Chief Judge

Copies to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
<http://www/ninja9.org>

IN THE CIRCUIT/COUNTY COURT OF
THE NINTH JUDICIAL CIRCUIT, IN
AND FOR ORANGE/OSCEOLA
COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO.: _____

-vs-

DIVISION : _____

_____ /

MOTION TO CONTINUE

Pursuant to Florida Rule of Criminal Procedure 3.190(g), the State and/or Defense (circle one) hereby moves to continue this case, and in support of the motion states the following reasons as good cause for the request to continue:

If this motion is made by the defense, the defendant understands that speedy trial is waived upon the granting of the motion.

The non-moving party stipulates _____,
objects _____,
does not object _____ to this motion. (check appropriate response)

Counsel certifies that this motion is made in good faith.

Dated this _____ day of _____, 200__ in Orlando/Kissimmee, Orange/Osceola
County, Florida.

Attorney for the Defendant/State

Florida Bar Number

Defendant

I certify that a copy hereof has been furnished by
mail/hand this ____ day of _____, ____ to the
following: _____

IN THE CIRCUIT/COUNTY COURT, OF THE
NINTH JUDICIAL CIRCUIT, IN AND FOR
ORANGE/OSCEOLA COUNTY, FLORIDA

STATE OF FLORIDA

-vs-

CASE NO. : _____

DIVISION: _____

ORDER GRANTING/DENYING MOTION TO CONTINUE

The Court, having reviewed the defense's state's motion to continue, hereby

DENIES the motion to continue.

GRANTS the motion to continue for the following reasons:

Defense not sufficiently prepared for trial

State not sufficiently prepared for trial

Illness of a party/witness

Illness of an attorney for the party

Untimely disclosure of a witness

Unavailability of a witness/attorney

Untimely disclosure of discovery

Defendant's competency at issue

Appointment of conflict counsel upon the public defender's office withdrawal

Other _____.

The non-moving party stipulates, objects, does not object to the motion to continue.

Court unable to try the case within the current trial period.

CIRCUIT COURT JUDGE

DATE

NOTICE OF TRIAL

TRIAL is hereby rescheduled during the two-week period of _____
at _____ A.M./P.M.. The Preliminary Conference is scheduled for _____ at _____
A.M./P.M.. All other provisions of the original order setting this matter for trial remain
applicable.

DEFENDANT MUST BE PRESENT FOR PRELIMINARY CONFERENCE.

SURETY/DEPOSITOR

PLEASE BE GOVERNED ACCORDINGLY

I certify that a copy hereof has been furnished to each said
person by mail/hand this _____ day of _____, _____.

STATE ATTORNEY

BY: _____

Deputy Clerk/Judicial Assistant

DEFENSE ATTORNEY