

443rd DISTRICT COURT INSTRUCTIONS, RULES, AND PROCEDURES

The District Judge presiding over criminal cases in Ellis County, Texas hereby adopts these Instructions, Rules, and Procedures for criminal cases, which shall apply in every criminal case in the 443rd District Court unless otherwise ordered by the presiding judge, effective immediately.

The following Instructions, Rules, and Procedures are in place to ensure that all proceedings are conducted with dignity and in an orderly, expeditious and controlled manner so that justice is done. Tex. Gov't Code 21.001 (b).

ATTORNEY INSTRUCTIONS

1. Attorneys shall be patient, dignified and courteous to parties, jurors, witnesses, opposing counsel, court staff and participants.
2. Attorneys should rise to make objections. Objections should state legal grounds. No argument will be allowed except upon invitation by the Court. When an objection is made, opposing attorney and witness must allow objecting attorney to state objection and receive Court's response before continuing.
3. Confidential conferences between opposing counsel during trial to resolve evidence or procedure problems are encouraged.
4. Attorneys are expected to meet all time requirements set out in any notice of setting, scheduling order or Court's Standing Discovery and Pretrial Order. Attorneys are expected to be on time for all court appearances or notify the Court, Court Coordinator or Court Reporter regarding delays.
5. Attorneys should be appropriately attired becoming officers of the Court. Appropriate professional attire is required for all appearances whether in person or by Webex.
6. Attorneys should email the Ellis County and District Attorney's Office, at da.receptionist@co.ellis.tx.us, and the Court a vacation letter to the Court. Announcement settings may be reset if the letter is received no later than thirty (30) days before the setting. For all other announcement settings and contested matters previously set before the Court, it is the attorney's responsibility to find someone to cover his or her setting. The Court will consult the attorney vacation list before setting contested hearings.
7. Attorneys will also comply with the Court's Standing Discovery and Pretrial Order.

ANNOUNCEMENT SETTINGS

1. All Defendants and attorneys are required to attend every setting in person, except for the second announcement if a waiver has been filed at least two (2) business days before the setting. A Defendant's appearance cannot be waived for other announcement settings.
2. The accused's instructions regarding court appointment of attorney will be given to each Defendant at the time of appointment or on first announcement, whichever is first.
3. The State's attorneys are required to be present at each setting to facilitate settlement.

4. Each criminal case will have at least three announcement settings.
 - a. The Standing Discovery and Pretrial Order and the Court's Conditions of Bond will be entered by the clerk at the time the indictment is filed. A copy of both will be sent to the Defendant and his or her attorney.
 - b. First announcement will be set by the Court following a Grand Jury indictment as follows:
 - i. Three (3) weeks after the indictment is filed for in custody cases
 - ii. Approximately forty (40) days after the indictment is filed for all other cases
 - iii. Attorneys will enter their selected dates for second and third announcements on the announcement scheduling order. Then the order will be signed by the Court and a copy will be efiled to the Defense and the State. (See Announcement Scheduling Order).
 - c. Second and third announcements will be set thirty (30) days apart for each setting.
 - i. Appearances at second announcement may be waived in accordance with the written waiver. The written waiver should be e-filed no later than two (2) business days before the announcement date. (See Waiver of Announcement).
 - ii. Motions for suggested name change should be e-filed no later than two (2) business days before second announcement.
 - d. Defense counsel and Defendants should check in with the Court's Bailiff when they first arrive. Testing for bond conditions and dates for scheduling orders will be scheduled and directed by the Court Coordinator. If a matter needs to be heard before the Court, defense counsel will check in "Ready to Appear" with the District Clerk present in the Courtroom. Matters that need to be heard will be called in the order they are checked in "Ready to Appear."
 - e. Negotiations and discussion between the State and Defense will take place in the docket rooms.
 - f. At third announcement parties will either set a case for plea or trial. Cases will be placed on the jury trial docket after the defendant has rejected the State's offer, if one is given. If a case is being placed on the jury trial docket, a pretrial conference date and allotted time to hear pretrial matters will be selected by both parties. (See Jury Trial Setting Slip).
 - i. Attorneys or pro se parties will be expected at pretrial conference to have all evidentiary motions (with exclusion of Motion in Limine) filed ten (10) business days prior to the pretrial conference and notice given to opposing counsel. Any motion found to be duplicates of the Standing Discovery and Pretrial Order will be denied.
 - g. A pretrial conference may be waived if there are no motions to present to the Court.

- h. If no evidentiary motions are timely filed before pretrial conference, the pretrial conference setting will be waived.
 - i. Cases set on the Court's trial docket will be set for a trial announcement before jury selection.
5. Plea Agreements
- a. Plea agreements can be heard as soon as both sides are ready and set according to the Court's open schedule.
 - b. Pleas can be heard the same day as an agreement is reached.
 - c. Pleas on cases set on the trial docket should be set for plea before jury selection.
6. Motions to Adjudicate or Revoke Community Supervision will have two announcement settings. (20 days apart). These cases will either need to plea, be set for a plea or set for a contested revocation at second announcement.
- a. Reduction or Termination of Community Supervision Period: The Court will review community supervision in accordance with Art. 42A.701 of the Code of Criminal Procedure.
 - b. Community Supervision will notify the State and Defendant when a probationer is ready for review.
 - c. Community Supervision will also notify the State and Defendant about the status of the review.

DECORUM AND CONDUCT

ATTIRE:

Parties and witnesses will not be allowed to appear before the Court in attire inappropriate for the dignity of the proceedings. Parties, litigants, witnesses and spectators will dress accordingly. No tank tops, torn jeans, bare midriffs, shorts, flip flops, bare feet, t-shirts with vulgar, offensive words, explicit or graphic emblems will be allowed. No hats, sunglasses (unless medically required) shall be allowed.

REFRESHMENT:

No food is allowed. Attorneys, parties or witnesses will not be allowed to chew gum, eat candy or have any other substance in their mouth while their case is being heard.

Attorneys, parties and witnesses will be allowed closed beverages during contested hearings or trial.

Attorneys may have closed beverages during announcement settings.

****The Court should be advised in advance of any physical or medical condition which requires an exception from the Attire and Refreshment guidelines. ****

CELL PHONE AND ELETRONIC DEVICES POLICY:

Unless you are an attorney appearing before the Court, or a staff member working with an attorney appearing before the Court, cell phone usage is prohibited during court sessions. Attorneys will not be permitted to use their cell phone while presenting pleas, motions or notices to the Court. Attorneys and their staff will keep their phones on silent while in use. If an attorney needs to take a business call, the attorney must leave the courtroom.

All electronic devices must be on silent at all times.

Meta glasses or glasses that can record proceedings are prohibited in the courtroom. Audio or visual recording in the courtroom is strictly prohibited.

Photography is prohibited in the courtroom.

MOTIONS AND SETTING HEARINGS

CERTIFICATE OF CONFERENCE:

No motion for early termination from community supervision, bond reduction, 17.151 application or writ of habeas corpus will be set for hearing until the moving party has communicated with opposing attorney to determine whether the contemplated motion will be opposed. If not opposed, the moving party shall accompany the motion with a proposed order signed by all attorneys indicating the approval of the same. The following certificate shall be attached to the motion for all other motions and signed by the attorney in charge.

Certificate of Conference

I, the undersigned attorney, hereby certify to the Court that:

I have conferred with opposing counsel, _____, in an effort to resolve the issues contained in this motion.

I certify that on _____ I reached out to all parties via: _____ regarding setting a hearing on _____ (motion) and:

_____ the parties cannot reach an agreement and I am asking the Court to set a hearing.

_____ the opposing party has not responded within two (2) business days, and I am asking the Court to set a hearing.

Upon receipt of certified motions, the Court Coordinator shall set matters for a hearing, without a judge’s signature.

Motions concerning bond and writs will be heard as quickly as reasonably possible after receiving the motion with the appropriate orders and certificates of conference.

Motions for Continuance which are filed unilaterally will not be considered without first obtaining a contingent appearance date from the Court Coordinator in the event the motion is granted.

Agreed Motions for Continuance are subject to Court approval and must contain an appearance date as soon as reasonably possible for matters continued.

Motions to Suppress evidence will be heard within 30 days of the motion's filing if the Court's schedule allows, unless the case is already set for pretrial conference. Motions to Suppress that are not filed before pretrial conference are not timely filed.

Motions to Withdraw as retained counsel for cases set on an announcement setting will be signed without hearing if the represented party does not object to the withdrawal.

Motions to withdraw as appointed counsel or motions to withdraw on a case set for trial will be set for hearing.

Ex Parte Motions and Orders shall first be presented to the Court for determination by e-filing. If the Court is unavailable to promptly review the request, and the request is time sensitive, then the request may be presented to the Court Coordinator.

Time Limits on Motions Parties will designate the amount of time needed for a contested hearing in their motion so the Court may schedule accordingly. If more than 20 minutes is needed for a contested bond hearing, it should be noted in the motion along with the reason why more time is necessary.

CASES SET FOR JURY TRIAL

JURY SCHEDULE:

Parties and attorneys will receive their trial order after trial announcements. All parties and attorneys must be present for their assigned day of jury selection at 8:00 a.m. Cases which cannot be reached within the designated period will receive a new trial date before the parties and counsel depart from the currently set jury selection.

VOIR DIRE:

Attorneys are prohibited from attempting to define the term "beyond a reasonable doubt" or expanding the legal definitions of "preponderance of the evidence" or "clear and convincing evidence." Attorneys may not substitute their own definition or interpretation for that definition prescribed by law.

Attorneys are ordered not to commit potential jurors by relating facts of a case. Attorneys are ordered not to present the jury panel with facts or circumstances the attorney expects to be presented in the instant case during trial.

The juror strike list must be surrendered to the District Clerk. Attorneys and those with whom the attorney has shared juror information cards shall not at any time disclose the personal

information contained in the cards in accordance with the Code of Criminal Procedure Article 35.26.

TIME LITIS FOR VOIR DIRE:

Each side will be allotted:

1. Forty-five (45) minutes to one (1) hour for most cases.
2. One hour and fifteen minutes (1.15) for cases involving child abuse, numerous defenses, causation discussion or involving death.

EXCUSING THE JURY:

When the trial begins, removing the jury from the courtroom for evidentiary matters should be kept to a minimum. Attorneys are directed to bring such matters to the Court's attention before the jury is brought into the courtroom and before the end of recess. The Court will hear those matters before 9:00 A.M., after 5:00 P.M., during the lunch hour or during a regular recess in order to minimize the inconvenience and duration of detainment to the jury.

TIME LIMITS FOR STATEMENTS:

Time limits will be placed on closing arguments. Time warnings will be given by the Court on attorney's request. At the conclusion of the time limit, the attorney must cease speaking and be seated.

EXPERT WITNESSES:

Voir dire examination of an expert witness will generally be held at the time of trial in such a manner that is respectful of the jury's time. However, if either side anticipates that an examination will exceed one hour, such shall be made known to the Court so that an additional pretrial hearing can be scheduled for this purpose.

WITNESSES:

Attorneys are responsible for having their witnesses available when called. Witnesses are expected to be present at trial and awaiting their turn to be called to testify. The attorneys should advise the Court well in advance of any problems with the attendance of a witness that would interfere with the rapid and continuous presentation of the witnesses to the jury.

If witnesses are placed under the Rule, it is the attorney's responsibility to instruct the witnesses and alert the Court if the Rule has been violated.

BENCH CONFERENCES:

If requests to approach the bench during jury trial are granted, the Court Reporter is generally not in a position to record the conference unless a request for a record is made, and the Court is given the opportunity to make accommodation.

Hon. Grace Pandithurai

