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CASE MANAGEMENT PLAN

2019 APR -3 PM 2:21

JUDICIAL DISTRICT 20A/28 PROSECUTORIAL DISTRICT

2019 APR -3 PM 1:41

(MONTGOMERY AND STANLY COUNTIES)

MONTGOMERY CO., C.S.C

STANLY COUNTY, N.C.

BY RULE 1: GENERAL PROVISION

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1.0 This Case Management Plan shall be administered and criminal calendars shall be prepared under the supervision of the District Attorney.

1.1 The purpose of these rules is to institute a Case Management Plan that will provide for the orderly, prompt and just disposition of criminal matters. The matters addressed pursuant to this Plan will be resolved in a fashion to protect the interests of the State and the victims of crime, as well as insure that the rights of Defendants are preserved. Law Enforcement shall provide to the State their case files in a "timely basis" following the felony arrest of an individual pursuant to N.C.G.S. 15A-501(6). For purposes of this Case Management Plan, a "timely basis" is within ten (10) working days of arrest, unless the case is deemed "exceptional" as defined below.

1.2 The calendar for the disposition of criminal cases in the 20A Judicial District/28 Prosecutorial District, Superior Court Division, shall be set and maintained by the District Attorney in accordance with these rules.

1.3 These rules shall be construed in such a way as to avoid technical delay.

1.4 It is recognized that these rules are not complete in every detail and will not cover every situation which may arise. In the event that these rules do not cover a specific circumstance, the District Attorney is authorized to act in his/her discretion, subject to the law of North Carolina and the United States.

1.4(a) In cases where the defendant is represented by counsel, the District Attorney and Defense Counsel may by agreement reach a resolution. In the event the District Attorney and Defense Counsel are unable to reach a resolution, the District Attorney may consult with the Senior Resident Superior Court Judge, if available, or Presiding Judge, after appropriate notice to Defense Counsel;

1.4(b) In cases where the Defendant appears Pro Se, the District Attorney may consult with the Senior Resident Superior Court Judge, if available, or Presiding Judge, with appropriate notice to Pro Se Defendant.

1.5 The Case Management Plan shall be filed in the Criminal Court Division of the Montgomery and Stanly County Clerk's Offices (20A Judicial District/28 Prosecutorial District).

RULE 2. DEFINITIONS

- 2.0 DEFENSE COUNSEL – The term “Defense Counsel” as used in these Rules shall be construed to include an attorney appearing as a matter of record on behalf of a Defendant or Defendants who are proceeding Pro Se.
- 2.1 DISTRICT ATTORNEY – The term “District Attorney” as used in these Rules shall be construed to apply not only to the elected District Attorney but also to all Assistant District Attorneys working under the District Attorney’s supervision.
- 2.2 EXCEPTIONAL CASES – Cases designated as “exceptional” shall include, but are not limited to, all homicide cases, cases of a sexual nature, drug trafficking cases, cases involving multiple defendants or numerous victims, complicated white collar crimes, cases involving more in depth preparation than typically required, cases with large amounts of discovery, cases still under investigation, or cases involving complicated scientific evidence.
- 2.3 GOOD CAUSE – “Good Cause” shall include but is not limited to: Counsel engaged in the trial of another matter; personal illness; family emergency; or unavailability of witnesses.
- 2.4 STANDARD CASES – Cases designated as “standard” shall include all felony cases not designated exceptional.

RULE 3: APPLICABILITY OF THE RULES

- 3.1 These rules shall apply to all cases indicted after July 1, 2019.
- 3.2 These rules shall not apply to cases designated “exceptional” by the District Attorney, or designated “exceptional” by agreement of the parties.

RULE 4: FIRST ADMINISTRATIVE SETTINGS

- 4.1 Every felony case shall be scheduled for an administrative setting within 60 days of indictment or service of notice of indictment if required by law.
- 4.2 At the first administrative setting, the following matters shall be addressed:
- (a) the Court shall determine the status of the Defendant’s representation by counsel;
 - (b) the District Attorney shall inform the Court if a case is designated as “exceptional.”
 - (c) after hearing from the parties, the Court shall set deadlines for the delivery of discovery, arraignment, if necessary, and the filing of motion(s);

- (d) if the District Attorney has made a determination regarding a plea arrangement, the District Attorney shall inform the Defendant of said plea arrangement and the Court may conduct a plea conference, if supported by the interest of justice;
- (e) the Court may hear pending pre-trial motion(s), set said motion(s) for a date certain or defer a ruling on motion(s) until the trial of the case; and
- (f) the Court may schedule more than one administrative setting, if requested by the parties, or if it is found to be necessary to promote the fair administration of justice in a timely manner.

4.3 The rules anticipate that in standard felony cases, these cases will be resolved by entry of a guilty plea or scheduling of a trial, within nine (9) months of the issuance of the indictment.

4.4 Arraignment shall be as provided in NCGS 15A-941.

4.5 Defendants may not leave the courtroom for the day until released by the Court or District Attorney or defense counsel with consent of the Court.

RULE 5: CALENDARING CASES FOR TRIAL

5.1 If a case is not disposed of by non-jury disposition within the nine (9) month period set out in Rule 4.4, the plea offer is deemed rejected and revoked by the District Attorney and the case is set for trial. The Elected District Attorney has the inherent authority to extend a plea offer at a later date or other disposition of the case.

5.2 If the parties have agreed on a trial date, the District Attorney shall announce a proposed trial date to the Court.

5.3 If the parties have not agreed to a trial date, the District Attorney shall announce a proposed trial date. Defense Counsel may be heard regarding his/her availability. At that time the Court will set the trial date after hearing both parties.

RULE 6: THE SETTING AND PUBLISHING OF THE TRIAL CALENDAR

6.1 The District Attorney shall prepare a calendar which shall be published no later than 10 working days prior to a regularly scheduled session of Court.

6.2 The cases on the trial calendar shall appear in the order in which they are anticipated being called for trial. On the Monday before the week of Superior Court the District Attorney's Office shall post a trial list of cases in the order in which they will be called for trial.

RULE 7: TRIAL CALENDAR ADMINISTRATION

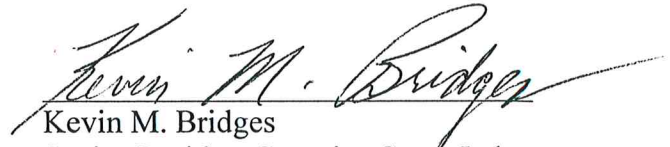
- 7.1 The District Attorney, after calling the calendar and determining cases for pleas and other disposition, shall announce to the court the order in which the District Attorney attends to call for trial the cases remaining on the calendar.
- (a) As soon as possible but no later than at the Monday calendar call, the District Attorney shall notify the trial judge and defense counsel of any cases on the trial calendar for which a scheduling conflict may exist regarding expert testimony, including State Crime Lab analyst expert testimony. The trial judge shall address scheduling of the trials involving experts at Monday calendar call.
- 7.2 It is in the sole discretion of the Elected District Attorney whether a case can enter non-jury disposition from the trial calendar, other than plea of guilty as charged, sentencing left to the Court.
- 7.3 In the District Attorney's discretion, matters for trial may be commenced immediately after the announcement of the trial list or may be scheduled to commence at a later time in the week.
- 7.4 Deviations from the announced order require approval by the Presiding Judge if the Defendant objects, however the Defendant may not object if all the cases scheduled to be heard before the Defendant's cases have been disposed of or delayed with the approval of the Presiding Judge or by consent of the State and the Defendant.
- 7.5 A case may be continued from the trial calendar only by consent of the State and the Defendant or upon order of the Presiding Judge or Resident Superior Court Judge for good cause shown.
- 7.4 The District Attorney, after consultation with the parties, shall schedule a new trial date for cases not reached during that session of court.

RULE 8: MISDEMEANORS

- 8.1 Misdemeanor appeals shall be scheduled for one administrative setting after notice of appeal is given. The issue of counsel shall be addressed at this setting. No other provisions of this Case Management Plan shall apply to Misdemeanors.
- 8.2 If misdemeanor appeals are not disposed by non-jury disposition or remand after the first administrative setting the case may be placed on the trial calendar.

This Case Management Plan shall be filed with the Clerks of Superior Court for Montgomery and Stanly Counties.

This the 2nd day of April, 2019.



Kevin M. Bridges
Senior Resident Superior Court Judge
Judicial District 20A



T. Lynn Clodfelter
District Attorney
Prosecutorial District 28