

22 R167

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

JUDICIAL DISTRICT 19B

SUPERIOR COURT DIVISION

FILED
2022 SEP -8 17 2:59
RANDOLPH CO. S.S.C.
BY _____

ADMINISTRATIVE ORDER
CONTINUANCE POLICY
CRIMINAL SUPERIOR COURT

As this Continuance Policy is prepared, Judicial District 19B, as of 01 January 2019, consists of Randolph County, North Carolina and is also composed of Prosecutorial District 37.

This policy is prepared with consideration of addressing the backlog of criminal cases, in Judicial District 19B, which developed during the COVID-19 Pandemic, beginning in or about March of 2020.

It is the policy of this Court to provide Justice for Citizens, without unnecessary delay, and without undue waste of the time and other resources of the Court, the Parties, and other case participants. For all case types and dockets, and in all courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. In order to protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

While this Policy applies to all cases pending in Criminal Superior Court, in addressing this Continuance Policy, the Court addresses special consideration to the following respective criminal cases:

- Class A through E Felonies, both pending and set for trial; and
- All other pending Felony cases, whether just pending or set for trial.

Now, THEREFORE, it is hereby ORDERED, as follows, that:

1. The timelines herein set forth do not include first appearances for Defendants in Criminal Superior Court.
2. The timelines herein set forth, for Felony charges (not including allegations of violation of probation), do not include initial non-Jury Administrative calendar settings, as proscribed by the Administrative calendar setting policy of Prosecutorial District 37, for said Felony charges or Misdemeanor charges associated with said Felony charges.

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3. This continuance policy applies to cases set on trial (or for probation cases, set on hearing) calendars.
4. In order to facilitate continuing dialog between Defendants and their respective Attorneys, preserve respect for the administration of Justice, and provide the opportunity to address any procedural issues in pending cases, **Defendants are required to be present, as noticed, for each calendaring of any of their cases, in Criminal Superior Court.** Failure of a Defendant to appear, pursuant to notice, for a case in Criminal Superior Court subjects any such Defendant to an order for arrest and forfeiture of then-existing bond/collateral.
5. Except in unusual circumstances, any continuance motion or request shall be in writing, and filed not later than the Wednesday before the beginning of the Session of Court, during which the case for which rescheduling is requested is calendared. Should said Wednesday before the beginning of such Court Session be a holiday, then a continuance motion shall be filed the first day preceding said Wednesday, on which the Randolph County Courthouse is open for business. Whenever possible, continuance motions or requests shall be made using the appropriate forms issued by the North Carolina Administrative Office of the Courts, which include AOC-CR-410 for motions to continue criminal superior cases, a copy of which is attached hereto and incorporated herein by reference. In addition to serving the opposing Party, the Movant shall also provide a copy of said motion to the Superior Court Judges Office.
6. Any Attorney or Party requesting a continuance shall state the reasons for the request.
7. Continuances on agreement of Counsel or the Parties shall not be automatically granted.

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8. The Court shall grant a continuance only for good cause shown, unless otherwise provided by law.¹

9. Continuances of cases (in the instance of multiple pending cases, the lead, dominant or highest class/level case, as reflected hereinbelow, is the case of reference) older than the respective timelines, hereunder set forth, or that have been previously continued are specifically disfavored and shall be granted only in extraordinary circumstances:
 - a. Capital Class A Felonies: 30 months;
 - b. Non-Capital Class A, Class B1, and Class B2 Felonies: 24 months; and
 - c. Class C, Class D, and Class E Felonies: 18 months.

10. Motions for continuance may be considered by any resident Superior Court Judge of or any Superior Court Judge assigned, during a term, to Judicial District 19B, prior to the beginning of the Court Session, during which the case, subject of the said continuance motion, is calendared. So long as Respondent(-s), with respect to said motions may be reasonably contacted, no such motion to continue shall be considered ex-parte. Should such a motion to continue not be considered by a resident Superior Court Judge of or a Superior Court Judge assigned, during a term, to Judicial District 19B, prior to the beginning of the Court Session, during which the case, subject of the said continuance motion, is calendared, then said motion shall be considered by the Judge presiding over said Court Session.

¹ State law specifies the factors that judges must consider when ruling on pretrial continuance requests in criminal cases. G.S. 15A-952(g). State law entitles defendants in criminal cases to continuances in certain situations without any showing of good cause. *E.g.*, G.S. 15A-1023(b) (defendant must be granted continuance upon judge's rejection of plea arrangement); 15A-1024 (defendant is entitled to continuance upon withdrawal of plea following judge's determination to impose sentence other than as provided for in plea arrangement). There is at least one circumstance in which state law entitles the state to a continuance. G.S. 15A-1415(g) (court must grant state's request for 30-day continuance made in response to defendant's amendment to motion for appropriate relief).

11. In ruling on a motion for continuance, the Judge shall consider the following, non-exclusive, factors:

- a. The age of the case;
- b. Whether the Defendant is in custody and, if so, the length of the Defendant's pre-Trial detention, related to the case;
- c. Whether (a) co-Defendant(-s) is/are associated with the case;
- d. The number of times the case has previously appeared on a trial calendar;
- e. Whether opposing Counsel/Party(-ies) consent(-s) or oppose(-s) a continuance;
- f. The order in which the case is designated for trial, including whether the case has a priority designation;
- g. The number of previous continuances and which Party requested any respective prior continuance(-s);
- h. The number of times the case has been previously designated for trial and not reached;
- i. The due diligence of Counsel in promptly filing a motion for continuance, as soon as practicable;
- j. Whether the reason for the continuance request is a short-lived event, which could resolve prior to the scheduled trial date;
- k. Whether such continuance motion has been considered previously by the Court on the same or similar grounds;
- l. The length of the requested continuance;
- m. Whether the case is a Victim's Rights case, under N.C.G.S. 15A-830.5 and Article I, Section 37 of the North Carolina State Constitution;
- n. Whether Counsel initially followed the rules set forth herein, when requesting a continuance;
- o. Present or future inconvenience or unavailability of Witnesses or Parties;
- p. The opposing Counsel/Party's (-ies') position(-s), as to when the trial should be rescheduled, if continued; and
- q. Any other matter which promotes the ends of Justice.

12. Any grant of a continuance motion or request, by the Court, shall be placed in the record and also noted on/in the official Court file, as maintained in the Office of the Clerk of Superior Court for Randolph County, with an indication/recording of who requested the continuance and the reasons for granting it. Accompanying any continuance of a case shall also be notation on/in the said official Court file, including whether the continuance was by consent of the Parties or upon objection of a Party.
13. Whenever possible, the Court, in consultation with the Parties, shall set the rescheduled court event to be held not later than ninety (90) days after the date from which it was continued.
14. If a plea offer, for Class A through E Felonies, is rejected by the Defendant, at the final non-Jury Administrative setting for said case(-s), then the Court shall conduct a pre-Trial Conference, in open Court, in the presence of the Defendant, Defense Counsel, and Prosecution, At any such pre-Trial conference, the Court shall inquire into and consider any and all issues, which may present, including, but not limited to: discovery, evidence, Counsel, and Witnesses. When the State decides to place a case on a trial calendar, as soon as practicable, prior to the beginning of said trial session, the State shall consider placing said case on a non-Jury Administrative session (including a non-Jury Administrative Compliance [Probation Violation] session), for a final such Pre-Trial Conference.
15. To the extent that this order conflicts with any statutory provision applicable to a particular continuance motion or request, the statutory provision will control.
16. At least once a term (every six [6] months), the Senior Resident Superior Court Judge shall generate and review a report of pending cases and any data the Administrative Office of the Courts can make available regarding the number of court dates for each pending case. To promote the consistent application of this continuance policy, these reports should be reviewed and discussed with all other Superior Court Judges, resident in or assigned by term to the district; bar representatives; and other court-related agencies, to seek resolution of any organizational or systemic problems that cause unnecessary delay in the timely resolution of all cases.

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17. Nothing in this Order shall be construed as the Court disrespecting the calendaring and docketing authority, as set forth in statutory and case law, of the Office of the District Attorney for Prosecutorial District 37.

18. This Policy shall apply to all cases pending under or thereafter coming under the jurisdiction of Criminal Superior Court, in Judicial District 19B, effective 01 ~~December~~ JANUARY 2023.

19. This Order shall be adopted as a Local Rule and published on the Administrative Office of the Court's Local Rules website.

20. This Order may be modified, at any time, by the Senior Resident Superior Court Judge.

Entered and effective 5 of this September day of September, 2022.

James P. Hill
Senior Resident Superior Court Judge,
Judicial District 19B

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PAMPHLET, C.S.E.