

SUPERIOR COURT CRIMINAL CASE DOCKETING PLAN
42nd PROSECUTORIAL DISTRICT
Henderson County
November 2021

GENERAL PROVISIONS

The goal of this plan is to provide for the orderly, just, reasonable and prompt disposition of pending criminal cases in Henderson County. This plan incorporates by reference N.C.G.S. §7A-49.4. This plan shall be construed in such a way as to avoid technical delay. Nothing in this plan shall be construed to deprive any victim of the rights granted under Article I, Section 37 of the North Carolina Constitution and Article 46 of Chapter 15A of the North Carolina General Statutes. Each felony will have an administrative setting. At the setting, the court will make certain determinations.

ADMINISTRATIVE SETTINGS

After indictment, or upon appeal from District Court, the District Attorney's Office will place each case on an administrative calendar to be heard during an Administrative Term of Superior Court within sixty (60) days of indictment or during a regularly scheduled term of Superior Court, whichever is sooner. If neither an Administrative Term of Superior Court nor a regularly scheduled term of Superior Court is scheduled within sixty (60) days of indictment or appeal, then the administrative setting shall occur at the next regularly scheduled Administrative Court.

Special sessions of Administrative Court will be scheduled in addition to regular sessions of Criminal Superior Court. A Resident Superior Court Judge will preside over the special sessions of Administrative Court whenever practical, but any Superior Court Judge may preside. The defendant and defense counsel shall be present at this time and any subsequent administrative setting. Venue for administrative settings may be in any county within the district.

At the Administrative setting, the following will be addressed:

1. Counsel: The Court will determine the status of the defendant's representation by counsel.
2. Discovery: The Court will determine the status of delivery of discovery by both parties under N.C.G.S. §15A-903 and 905; and the status of notices required by both parties under N.C.G.S. §15A-903, §15A-905, and §15A-959.
3. Arraignment.
4. Motions: The Court may hear pending pretrial motions, set such motions for hearing on a date certain, or defer ruling on motions until the trial of the case.

5. Plea Arrangement: The Court will determine whether a plea offer has been made and whether it has been accepted. In cases where the parties are unable to agree to the terms of a plea arrangement, the Court may conduct a plea conference if supported by the interest of justice.
6. Acceptance of Plea: If a plea offer has been accepted, defense counsel shall deliver to the Court at the administrative setting a completed transcript of plea form.
7. Other Matters: The Court may take pleas, remands, hear pre-trial motions, probation violations and any other non-jury matters brought before it to assist in a speedy and efficient administration of justice.
8. The Court may schedule another 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.
9. Trial Date: Unless the Court has scheduled another administrative setting pursuant to paragraph (8), or the case has been declared exceptional pursuant to paragraph (10), the District Attorney will move the case to a TRIAL POOL calendar, after providing the parties an opportunity to be heard if there is opposition to moving to a TRIAL POOL calendar. If counsel opposes their case/s being moved to the TRIAL POOL calendar they must address their concerns with the court prior to the conclusion of the Administrative calendar.

The District Attorney's trial calendar shall be published no later than twenty (20) working days before the trial date. The trial calendar shall not contain cases the District Attorney's Office does not have a realistic chance of reaching, taking into consideration a multitude of issues that prevent cases from going to trial, such as pleas, defendants that fail to appear, surprise conflicts, medical issues, and family emergencies, to name a few. The District Attorney's trial order shall be published no less than ten (10) working days before the first day of the upcoming trial calendar by posting a trial order notice in the Attorney Conference Room and on the door of Superior Courtroom (Number 2).

10. Exceptional Cases: Certain cases may be deemed exceptional by the District Attorney's Office and addressed on a case-by-case basis and will not be subject to the strictures of this Docketing Plan.

TRIAL CALENDARS AND ORDER OF TRIAL

The trial calendar shall be published no less than ten (20) working days before cases are calendared for trial. It shall not contain cases that the District Attorney does not reasonably expect to be called for trial. If any defendant has declared his or her case to

be for non-jury disposition and such disposition does not take place, such defendant's case is subject to immediate placement on the trial list at a time determined by the District Attorney, and thereafter, subject to be called for trial by jury. Cases that are not reached on the trial calendar during the regular session of Criminal Superior Court will be calendared by the District Attorney on another appropriate trial term.

Trial terms: The District Attorney's Office will endeavor to operate trial terms in a manner that accommodates the defense attorney, defendant, victim, and witnesses while balancing the need to effectively move cases as expeditiously as possible.

The District Attorney reserves the right to call cases out of order on the trial calendar as unexpected events and circumstances may dictate.



R. Andrew Murray

District Attorney

Date: 12 / 9 / 2021



Peter Knight

Senior Resident Superior Court Judge

Date: 12 / 9 / 21