

JUDGE JEFF ROSENFELD
DALLAS COUNTY CRIMINAL COURT OF APPEALS 2
COURT POLICIES AND PROCEDURES – JAN. 2009

POLICIES FOR DALLAS COUNTY CRIMINAL COURT OF APPEALS #2

- I. The policies listed below are subject to change on a periodical basis.
- II. The policies listed below are not written in stone—they may be modified by the judge or coordinator for good cause.
- III. Passes/ Announcements
 - A. Cases may be passed two (2) or three (3) times for announcement—defendant need not be present if represented by counsel.
 - B. One of the announcement passes may be for sixty (60) days.
 - C. Pending Felony case- Pass can be until felony is complete.
- IV. Plea Settings
 - A. Cases may be passed for plea two (2) times or one (1) time if there were three (3) announcement passes. Defendant must be present.
 - B. Cases may be pled on the day of trial.
- V. Jury Trial Settings
 - A. Jury trials will be set on Mondays and Wednesdays.
 - B. The purpose of the Jury trial setting is to set the case for Jury trial. The court is going to assume that when a case is set for Jury trial that the intent is to try the case as opposed to using the setting to get more time to deal with the case. Please do not set the case on the Jury trial docket to get more time—the court will work around the time problems in another manner.
 - C. Announcements for Jury trials:

The week before the case is to be heard for Jury trial, the defense attorney shall announce to the court coordinator whether the defense is ready or not. This announcement may be done in person, by phone (214-653-5715) or by email (JUWilliams@dallascounty.org). For Monday Jury trials, the announcement shall be made by 3 p.m. the Thursday before the Monday Jury trial. For Wednesday Jury trials, the announcement shall be made by 3 p.m. the Monday before the Wednesday Jury trial. If the defense fails to contact the coordinator by 3 p.m., then she will have to, unhappily, contact the defense attorney or the defense attorney's office for the announcement. If Ms. Williams does not hear from the defense attorney at all within the time period allotted, the court will assume that the defense is announcing ready. The State is under the same duty regarding the announcements. An announcement of not ready does not necessarily mean that the case will not be called to trial. See "continuances" *infra*.
 - D. Oldest cases first:

Usually, not always, and subject to the Court's discretion, the oldest case will be the #1 case and the next oldest case #2 etc...

JUDGE JEFF ROSENFELD
DALLAS COUNTY CRIMINAL COURT OF APPEALS 2
COURT POLICIES AND PROCEDURES – JAN. 2009

E. Fair/efficient Jury trials:

The goal of the court is to have fair and efficient trials. We are adopting several different related policies to achieve this end. The time limits are goals.

1. Trial day is trial day. The case is set for 9 a.m. If I am not in the courtroom before or at 9 a.m., I will take your announcement in chambers. Please do not make me or the court's staff hunt you down to get the announcement from you. We understand that sometimes you have several places at that time in the morning to be however, we just ask you to stop by for one (1) minute and announce as close to 9 a.m. or before if possible. At a minimum, please call Judy Williams, court coordinator at 214-653-5715 and announce. Both parties for the called case are expected to announce ready at or before 9 a.m. The goal is to try to pick a Jury before noon. We will not get bogged down in pre-trial issues, discovery, suppressions, motions in limine, or motions filed on the day of trial. These types of issues will be handled in advance of trial at a pretrial hearing—see *infra*.
2. Voir dire---30 minutes per side.
3. Opening Statements---10 min. per side.
4. Evidence---rarely will begin before 1p.m.
5. Charge---court will prepare, however, if you have requests, please be prepared to submit them in writing.
6. Final argument---10-15 min. per side.

VI. Trial before the court

- A. Cases are usually set on Friday mornings at 9 a.m.
- B. There is no requirement to make a previous announcement.
- C. Parties are expected to be ready to begin at 9 a.m.
- D. The case will be called for trial no later than 10 a.m.
- E. If state fails to call a witness after 10 a.m., when the case is called for trial the court will treat it as no evidence presented.
- F. If defendant is not present by 10 a.m., bond will be forfeited.
- G The court encourages stipulations as to evidence or reports.

VII. Discovery/ Motion in Limine/ Other Pretrial Hearings

The court encourages the parties to agree on any and all pretrial/discovery/ Motion in Limine issues. Absent agreement, any discovery/pretrial issue not filed AND heard at a pretrial hearing at least 7 days before trial are WAIVED. If either side wants the court to enforce a discovery/pretrial agreement or order, the agreement or order must be in writing and signed by the parties and the court prior to trial.

The court will not spend time on trial day dealing with discovery/ pretrial issues other than enforcing an order/ agreement. The court will consider a Motion in Limine prior to trial (assuming there was not a prior pretrial) but only after it has been presented to the other party for agreements.

JUDGE JEFF ROSENFELD
DALLAS COUNTY CRIMINAL COURT OF APPEALS 2
COURT POLICIES AND PROCEDURES – JAN. 2009

The court intends to strictly follow discovery/ Limine orders and agreements. Both sides should be able to rely on what was provided and not be surprised by new evidence/ information provided on the day of trial.

VIII. Motions to Suppress/ Quash and other Pretrial hearings

All Motions to Suppress and Motions to Quash will be heard in a separate pretrial hearing set and heard at least one (1) week prior to trial.

Such hearings will generally be heard on Fridays or possibly on Tuesday afternoons. Pretrial hearings are for any other pretrial issue such as discovery motions/ enforcement or redaction of videos.

IX. DWI bond conditions/ ODL conditions

- A. >21—1st offense Breath test >.15 or accident = Ignition interlock.
- B. >21-- 2nd offense = Ignition interlock-MANDATORY (by law).
- C. <21—1st offense Breath test > .15 or accident = Ignition Interlock.
- D. <21—2nd offense =Ignition interlock-MANDATORY (by law).

X. DWI Community Supervision.

- A. >21—1st offense Breath test > .15 or accident = Ignition Interlock-- MANDATORY (by law). (6 month review available for removal).
- B. >21—2nd offense Breath test > .15 or accident = Ignition Interlock— MANDATORY (by law) for at least 50% of supervision period.
- C. <21 1st offense Breath test > .15= Ignition interlock—MANDATORY (by law) at least 50% of the supervision period.
- D. <21 1st offense with accident= Ignition interlock (6 month review available for removal)

XI. Young offender probationers 17-22 year olds (YOPS)

The court believes that young offender probationers (17-22) whether deferred or not, deserve specialized attention and thus, a special program for this probationer is being developed to help insure that this probationer successfully completes his/ her probation without re-offending and without revocation. The intent is to have closer contact with the probationer to keep him or her “on track”. Also, the intent is that the probationer learn from his or her mistake to reinforce that it not happen again. The initial plan will require a report back to court within 60 days (with attorney present) as well as a class related to the offense.

Community service is a very important part of the program. Oftentimes, urinalysis testing will be ordered. If the *YOP* is still in high school, then he/ she will be ordered to complete high school and maintain a “C” average.

The teacher will be able to communicate with the probation officer.

The *YOP* will be brought into court (with attorney present) before the judge within 7-10 days of any violation of probation so the judge may impress upon the *YOP* of the seriousness of the probation. The program is being developed and is subject to change.

JUDGE JEFF ROSENFELD
DALLAS COUNTY CRIMINAL COURT OF APPEALS 2
COURT POLICIES AND PROCEDURES – JAN. 2009

XII. Revocations/ Adjudications

The court encourages the Defendant, State’s Attorney and the Court’s probation officer to work out agreements for fair resolution of revocations/ adjudications. In most cases, the court will follow such agreements.

Formal revocations/ adjudications can be set on Fridays.

XIII. Jail time pleas and revocations in excess of time served

The court is acutely aware of the problems associated with jail overcrowding and the expense associated with putting low-risk offenders in jail. The court also strongly believes in the defendant taking responsibility for one’s own actions, rehabilitation, “a defendant paying his debt to society” and self worth.

The court believes that a defendant and society have much more to gain by a defendant doing a sentence with community supervision; however; community supervision isn’t appropriate for all defendants.

In many cases, where a defendant is going to get 10 or more additional days in jail for his/her sentence, the court might have the defendant do that sentence through the *Road and Bridge Center* by working eight (8) hours per day in exchange of one day of jail time credit. The way it will happen is that the parties and judge will agree to X days to be worked. The defendant will do the work, which should be completed in the allotted period, and then report back to court for formal sentencing. The defendant will be put on a Personal Recognizance (PR) bond if in jail. If the defendant does not report to work or court, then a warrant will be put out again, and at that point the defendant will face sentencing or revocation. The idea is that the defendant does not actually go to jail, but works in exchange for jail time by working for the county. The defendant’s incentive to work for the *Road and Bridge Center* is not going to jail. The county benefits by not having to pay to house the defendant in jail and gets actual work out of the defendant by having him “pay his debt to society”. The benefit to the defendant is that he/she gains self esteem by doing something constructive.

XIV. Misc.

- A. Class”C” reductions-
Defendant must be able to pay all fines and court costs on plea day.
- B. Waiver of community service in class “A” and “B” cases—rarely allowed—must have a serious and documented physical disability.
- C. Payment of fines and court costs up front does not entitle the defendant on Community supervision to be unsupervised
- D. If you are relying on a case to support your position on an issue, please
Do not assume that I know it or have read it. Please provide me and opposing counsel with a copy.
- E. Try to be on time.
- F. Don’t lie or knowingly let your witness lie including the defendant.

JUDGE JEFF ROSENFELD
DALLAS COUNTY CRIMINAL COURT OF APPEALS 2
COURT POLICIES AND PROCEDURES – JAN. 2009

XV. Continuances

The court knows and understands that parties involved in a case have a myriad of reasons to continue a case. The court has no real desire to make parties try a case that they are not able or prepared to try. At the same time, the court is interested in trying and disposing of cases in a fair and timely manner. Because there are so many different scenarios for continuing a case, the following is just a general guideline for a continuance in this court:

- A. Generally, the newer the case and the farther out from trial the case is; the more likely the case will be continued.
- B. Each side gets one “free” continuance if it is sought NO LATER than 4 p.m. on the Thursday before a Monday trial or NO LATER than 4 p.m. on the Monday before a Wednesday trial. The same applies for up to one (1) agreed continuance. None of the above applies on the day of trial.
- C. For a continuance inside the periods described in “B” above, the continuance will depend upon the announcement made by the parties at issue as well as the age of the case and announcements by other cases and the underlying good cause for your continuance.

XVI. Feedback

This court and staff are striving to be a court that tries and disposes of cases in a fair, friendly, respectful and efficient manner. If you believe your case is not falling within any of these goals, I would be very interested in hearing about it either in a private meeting or anonymously. Also, I am always interested in hearing of ways to improve the court.

Jeff Rosenfield- Judge, Dallas County Criminal Court of Appeals #2
Tel. 214-653-5715
jrosenfield@dallascounty.org