CRIMINAL RULES

RULE 1. APPLICABILITY AND SUSPENSION OF RULES

1.01 Former Rules Void

All former rules of local practice except as readopted herein are void.

1.02 Applicability

Each rule is applicable in all General Sessions Court proceedings in Davidson County, Tennessee. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule.

1.03 Suspension of Rules

Whenever the Court determines that justice requires it, the Court may suspend any of these rules.

1.04 Appropriate Attire Required for Court

All parties, including Counsel and witnesses, shall dress appropriately for Court.

RULE 2. APPEARANCE OF COUNSEL

2.01 Counsel of Record and Entry of Appearance

Counsel must be licensed in the State of Tennessee in order to practice law or represent others. An unlicensed person will not be permitted to represent another party in the General Sessions Courts of Davidson County unless supervised by a licensed attorney pursuant to Tennessee Supreme Court Rule 7.

Whenever a Defendant in a criminal case is determined by the Court to be indigent and/or a conflict with the Public Defender representing the co-defendant(s) is determined, an Order shall be signed by the Judge appointing Counsel and setting forth the indigency finding and identifying the appointed Counsel. Appointed

Counsel shall continue to represent the Defendant by Order of the Court of competent jurisdiction.

All Counsel who have entered an appearance in a case shall be noted as Counsel of record. A Motion for a Set Aside Order shall be considered an appearance by the attorney filing said filing of a Motion.

Before any attorney who has been licensed less than two (2) years shall be eligible to accept appointments in criminal cases in the Davidson County General Sessions Court, he or she shall attend a TACDL General Sessions training seminar sponsored by the Court.

Any attorney who accepts an appointment in the Davidson County General Sessions Court in a criminal case, where the defendant is incarcerated, shall continue to represent that client during the period of time between bind over and arraignment in Criminal Court.

2.02 Criminal Court Representation

To effect efficient arraignment dockets in Criminal Court, any attorney appointed to represent an indigent defendant in the Davidson County General Sessions Court pursuant to Davidson County General Sessions Court Local Rule of Practice 2 shall, immediately upon the conclusion of the General Sessions criminal matter, notify the Clerk and the Defendant in writing whether counsel is or is not willing to accept appointment at arraignment in Criminal Court. See Appendix for Notice Form.

2.03 Withdrawal of Counsel

No attorney may be allowed to withdraw except for good cause and by leave of Court upon motion after notice to the defendant and to the Office of the District Attorney General.

2.04 Conduct of Counsel

During trial or hearing, Counsel shall not exhibit familiarity with witnesses or opposing Counsel and shall not use first names of adults. Counsel, parties and witnesses shall be expected to conduct themselves with appropriate decorum at all times in the Courtroom.

When addressing the Court, Counsel shall introduce herself/himself to the Court.

Counsel shall stand while examining witnesses, addressing the Court, or making objections.

Attorneys, litigants and witnesses are expected to be in court on time.

Counsel who anticipate being late for Court shall promptly notify the Clerk of the Court or any other person designated by each Division.

Counsel shall not announce being ready for trial or hearing unless the defendant is present or, in the case of the Assistant District Attorney, he/she is assured of the immediate availability of the prosecution's witnesses.

RULE 3. COURT CALENDAR (RESERVED)

RULE 4. SETTING CASES

4.01 Setting of Cases

Cases shall be heard on the date they are set on the Court's docket, unless, for a good cause shown or upon agreement of the parties, the Court resets them at a later date or continues them to a specific date.

RULE 5. CONTINUANCES

5.01 Continuances

An Order of Continuance must be filed in the Clerk's office no later than five (5) business days prior to the Court date. Said Orders may be obtained in the Criminal Court Clerk's office and signed by the Judge who presides over the division where the case originated, or the judge's designee. The originating special or substitute Judges shall not sign an Order of Continuance. No continuances are to be requested by e-mail communications, (except for probation officers with the permission of their supervising Judge). Continued cases will be reset on the originating Judge's docket. Cases may only be transferred to another division with the permission of both Judges and a signed transfer order filed with the Clerk's office.

Continuation orders must be approved by the District Attorney's office and a new date pre-approved to ensure witness availability. District Attorney approval may be obtained through email which should be attached to the continuance order.

RULE 6. SET-ASIDE ORDERS

6.01 Criminal Set-Aside Orders

An Order to Set Aside may be obtained in the office of the Criminal Court Clerk at the A. A. Birch Building. Said Orders may be obtained in the Criminal Court Clerk's office and must be signed by the Judge who presides over the division where the case originated or the judge's designee, or if no designee, the presiding judge. Substitute Judges shall not sign an Order to Set Aside. The requesting party must submit a copy of the front of the Criminal Court Clerk's file cover along with the Set Aside Order. Cases are to be reset on the court's first available docket without subpoenas.

An executed Order to Set Aside shall be filed with the Clerk's office by the party seeking the Order.

The Order to Set Aside shall be signed by the attorney or by the defendant, if the defendant is pro-se, requesting the Order with the reset date, and a copy shall be delivered to the Office of the District Attorney.

Any attorney requesting an Order to Set Aside shall become attorney of record and recorded on the warrant accordingly.

The following conditions must be met before a set aside will be considered:

- 1. If defendant has been released on his/her own recognizance (ROR) or a self-insured bond, a bond must be made; or the Defendant referred to pre-trial.
- 2. If a defendant has been released on Pretrial Release, a Pretrial Release officer must verify in person, by telephone, facsimile, or e-mail that Pretrial Release will stay on the bond; or
- 3. If a defendant posted a bond through a bonding company, a written statement from the bonding company certifying they will remain on the bond pursuant to the original bond agreement with the defendant must be present with the referenced warrant at the time the Order to Set aside is requested; this statement may be transmitted to the Court via a facsimile transmission or email to the Clerk's office.

Once a set aside is granted, the case shall be reset on the Court's first available docket with no subpoenas.

7. Reserved

RULE 8. RETIRED CASES

8.01 Retired Cases

If the office of the District Attorney files a Motion to Reinstate the prosecution of a retired case, a copy of such Motion shall be sent to both the defendant and any defense attorney of record giving a ten (10) day notice of the hearing of such Motion. The copy of the Motion sent to the defendant shall be sent by certified mail, return receipt requested to the last known address.

Upon motion of the defendant, or upon a retired case coming on for a scheduled review, a criminal case which has been retired or inactive for a period of one (1) year shall be dismissed by the Judge of the Court in which the case was retired or place on inactive status, at the expiration of said year.

Upon motion of the defendant, retired cases will be dismissed after a period of one (1) year, or at the time specified on the judgment.

RULE 9. EXPUNGEMENT ORDERS

9.01 Expungement of Dismissed Criminal Cases

All Orders of Expungement shall be initiated through the Criminal Court Clerk's Office effective October 1, 1998. The Criminal Court clerk shall be responsible to deliver the Orders of Expungement to the Office of the District Attorney for signature along with an executed copy of the warrant(s), to the administrative staff for signature of the appropriate Judge. The Office of the District Attorney shall sign Order of Expungement as evidence of agreement or shall decline to sign. The Office of the District Attorney shall be responsible to return said Orders to the Criminal Judge's Court Clerk's office. The administrative staff of the originating court will be responsible for obtaining the Judge's signature and returning said Order of Expungement(s) to the Criminal Court Clerk's Office. It will be the responsibility of the Criminal Court Clerk's office to notify the attorney or defendant after the Judge has executed the Order of Expungement for filing purposes.

Special or Substitute Judges shall not sign Expungement Orders.

In the event a case is dismissed following a bench trial in the Davidson County General Sessions Court said case shall be automatically expunged by the Criminal Court Clerk.

9.02 Expungement of Retired Cases

When a party seeks expungement of a case that was previously retired by the Court, a Motion to Dismiss must be simultaneously filed with the Order of Expungement along with an executed copy of the warrant(s) to be expunged, unless the case was scheduled for review by the Court when it was retired. A Motion to Dismiss 15 may not be made until one (1) year after the case was retired unless otherwise specified on the judgement at the time the case was retired.

The Order of Expungement may be signed by the Judge on whose docket the Motion to dismiss is set, or when the case comes on for a schedule review; the Order need not be entered by the Judge who made the original disposition of the case. If an Agreed Order is not submitted to the Judge for signature, the Motion shall be placed on the docket by the requesting attorney or defendant.

9.03 Expungement of Cases Pursuant to T.C.A. § 40-35-313

When a party seeks expungement of a case pursuant to T.C.A. § 40-35-313, a Motion to Dismiss must be simultaneously submitted with notice to the District Attorney's office accompanied by written proof that all requirements have been successfully completed; alternatively, if a case was set for further review by the Court at the time of the original disposition, a Motion to Dismiss is not required.

After an Agreed Order of Expungement is signed, the attorney or defendant shall file said Order with the Criminal Court Clerk's office.

RULE 10. PETITION TO SUSPEND OR MODIFY

10.01 Scheduled Petition to Suspend or Modify

Any Petition to Suspend or Modify a Sentence must have a Court date and time said Petition is expected to be heard and, in all cases, must be set before the original sentencing Judge. A copy of the Petition must be sent to the Office of the District Attorney at least five (5) business days prior to the scheduled hearing date. If the Petition to suspend or modify does not include the Court date and time, the Criminal Court Clerk will not set the Petition on the docket.

RULE 11. PLEA AGREEMENTS

11.01 Plea Agreements - Criminal Bond Dockets

All plea agreements shall be accompanied by a written plea agreement form which may consist of the original warrant with the appropriate language reflecting the disposition of the case. All plea agreements shall be signed by the Defendant.

RULE 12. BAIL

12.01 Detention Without Permitting Bond

A Judicial Commissioner may use discretion as to the setting of bail, but a reasonable bail shall be set, within a reasonable time, in all cases except for capital offenses where the proof is evident or the presumption great, in which case the defendant may be held without bail.

"Open Court" bonds are prohibited except for probation violations, when a defendant is being detained awaiting transportation to another judicial district within the State, awaiting extradition where a waiver of extradition has been signed, or the bond has been revoked pursuant to *State v. Burgess*.

The General Sessions Court judges are available at jail review dockets for Individualized Bail Bond Hearings. These hearings will run in conjunction with the daily review criminal dockets. The District Attorney shall make the NCIC Report available at any Individualized Bail Bond Hearing and the Sworn Affidavit may be accepted as proof at such hearings.

12.02 Duration of Capias

Any capias issued pursuant to a forfeit, either conditional or final, shall remain in effect until the defendant is apprehended and returned to custody and a disposition is made of the case.

All other capiases shall expire after five years on misdemeanors but shall remain in effect indefinitely on felonies.

12.03 Surrender by Bond Companies

Any surrender of a defendant by a bonding company shall be in compliance with T.C.A. §40-11-130 through §40-11-137.

The following procedures are to be followed for the surrender of a defendant by means of a certified copy of the defendant's bond where no capias has been issued for the defendant's arrest:

- 1. This procedure only applies to those cases where bondsman or Pretrial Release surrenders a defendant on a certified copy of the defendant's bond and where no capias has been issued for the defendant's arrest.
- 2. Any bondsman who intends to surrender a defendant on a certified copy of the defendant's bond may take the defendant to the Judicial Commissioner on duty in Night Court who shall sign the certified copy of bond and issue a mittimus committing the defendant to the Metropolitan Sheriff's department. Commissioners do not have the authority to deny a lawful surrender.

Alternatively, the bondsman may surrender the defendant directly to the custody of the Metropolitan Sheriff's department.

3. At the same time the mittimus is delivered to the Metropolitan Sheriff's department, the Judicial Commissioner shall also deliver to the surrendered defendant, if present, a "Notice of Surrendered Defendant" which notice shall confirm the following:

NOTICE TO SURRENDERED DEFENDANT

The Bail Bonding Company/Surety requests that your bail be surrendered of an alleged contractual bail violation. While the Bail Bonding Company has a right to surrender you, you also have a right to whether the Surrender is for good cause. You may waive your right to the hearing below and be eligible to post bond again unless the surrender is for a new arrest. You should consult either your private attorney or the Office of the Public Defender regarding your rights.

If the surrendered defendant is not present, the Judicial Commissioner shall deliver the "Notice to Surrender Defendant" to the Metropolitan Sheriff's Department who shall promptly deliver the notice to the surrendered defendant.

- 4. After the Judicial Commissioner signs the certified copy of the surrendered defendant's bond, the bondsman shall take said certified copy of the bond to the Criminal Court Clerk's bond office located in the Criminal Justice Center.
- 5. The Criminal Court Clerk's bond office shall retrieve the warrant(s) pursuant to which the certified copy of bond was written and docket the

surrender defendant for a Surrender Hearing. The Surrender Hearing shall be set on the next Jail Docket (within 72 hours).

- 6. The surrendering bondsman or the attorney representing the bonding company shall be present at the surrender Hearing in order to state to the Court the reason(s) for the surrender.
- 7. If the Court finds good cause for the surrender of the defendant, the Court shall sign the certified copy of the bond, or applicable order, noting the Court's acceptance of the surrender. The signed certified copy of the bond/order shall remain with the warrant.
- 8. The Clerk shall make two (2) copies of the signed certified copy of bond. Both copies shall be given to the surrendering bondsman. The surrendering bondsman may keep one (1) copy. The remaining copy shall be taken by the surrendering bondsman and given to the Metropolitan Sheriff's Department.
- 9. No court shall reinstate a surrendered bond without notice to the bonding company.
- 10. General Sessions Court will adhere to the applicable Criminal Court rules regarding source hearings and credit bonds.

12.04 Policy for Arrest Warrant

Reserved.

12.05 Information Intake Sheets

An information sheet entitled "Prosecution Information sheet" must be completed by all prosecutors before a warrant may issue and must be attached to the warrant. This form is provided to the prosecutor by the Judicial Commissioner, and it shall be the duty of the Judicial Commissioner to assure all information has been completed on this form. This form must be completed before a Domestic Violence Warrant may issue.

RULE 13. INTERPRETERS

13.01 Language Interpreters

Foreign language interpreters will be provided for parties involved during criminal in-court proceedings if sufficient notification is made to the Court Administration Office. The Court does not pay for post adjudication interpretation.

Foreign language interpreters are paid by the Administrative Office of the Courts. On all bond dockets – attorney shall notify the language coordinator two weeks prior to the Defendant's court date of the need for interpretation services.

Interpreters will be present thirty (30) minutes prior to the scheduled Court appearance.

13.02 Hearing Impaired Interpreters

Sign interpreters are provided for criminal proceedings at the Court's expense but notification is to be given to the Court Administration Office as soon as the need is determined. Cases involving a sign interpreter will be heard at the beginning of the docket provided the interpreter is prepared for trial.

13.03 Hearing Impaired Persons Brought into Night Court

Hearing-impaired persons who are brought into Night Court for any reason must be informed a Night Court Commissioner will contact an interpreter from the League of Deaf and Hard of Hearing to be present during the proceedings in Night Court. The Judicial Commissioner on duty shall immediately notify a League of Deaf and Hard of 19 Hearing interpreter to be present in Night Court, if made aware. For ADA Accommodations contact the Night Court Commissioner sign is posted in Night Court.

RULE 14. NO-SMOKING POLICY

14.01 General Policy

Pursuant to Metropolitan Ordinance No. 094-1035, and Public Chapter 410 of 2007 effective October 1, 2007, smoking is prohibited in public buildings.

RULE 15. FORFEITURE/PROPERTY SEIZURE WARRANTS

15.01 Policy

Pursuant to Tennessee Code Annotated, §40-33-204, Probable Cause Hearings for the issuance of Forfeiture Property Seizure Warrant will be recorded effective October 1, 1998. All Forfeiture Warrants and taped recordings will be filed and maintained by the Criminal Court Clerk. A certified copy of the recording shall be made available upon request of any party and shall be admissible as evidence.

RULE 16. RESTRICTED DRIVER'S LICENSE

16.01

All requests for issuance of a restricted driver's license shall be initiated through the Criminal Court Clerk's Office effective October 1, 1998. All paperwork and files relating to restricted driver's licenses shall be maintained in the Criminal Court Clerk's Office.

RULE 17. VIDEO EQUIPMENT GUIDELINES

17.01

All videos played on the General Sessions Court video equipment must meet the following guidelines:

- CD's and DVD's must be viewed by parties prior to coming to court. Video must be playable in a computer video player or DVD player through TV monitor device without having to install additional software.
- No third-party software will be installed on General Sessions Court computers to play videos due to network security issues.
- Most standard video formats are as follows and should be used, MPG, MPEG, WMV, AVI, VOB MOV, for computer or DVD compliant formats playable through DVD player.

17.02 Out of Court Video Appearance

Upon agreement of the parties and subject to a showing of good cause, the Court may grant permission for a witness to appear via video appearance.

Where agreement is not achieved, a party may file a motion, giving proper notice, requesting that witness appear via video appearance. The court will hear the motion pursuant to *State v. Dennis Lee Seale*, 2020WL4045227.

RULE 18.

18.01 Signature of Judges

Attorneys and <u>pro se</u> litigants are to obtain the signatures of the specific judge assigned to the specific case. Should the Judge be unavailable, certain judges are

authorized to sign on behalf of other judges. The Criminal Court Clerk's office will advise on the availability of alternate judges.

18.02 Special or Substitute Judges

- 1. Special or Substitute Judges shall only hear cases that are docketed in the Court for which the Special or Substitute Judge has been designated to sit.
- 2. Special or Substitute Judges shall not adjudicate any cases that are not docketed on the docket to which they have been appointed as Special or Substitute Judge.
- 3. Special or Substitute Judges shall not cause to be docketed any matter that has not been previously docketed by the Clerk of the Court that the Special or Substitute Judge is designated to sit.
- 4. Special or Substitute Judges shall not sign Orders declaring a defendant indigent or an Order waiving any cost, fee, or fine.
- 5. Special or Substitute Judges shall not sign Expungement Orders, Set Aside Orders or Continuance Orders on any case. If the original judge is not available, the presiding judge should address the issue.
- 6. Special or Substitute Judges are not authorized to approve and sign an Order Directing Outpatient or Inpatient Forensic Evaluation.
- 7. Special or Substitute Judges are not authorized to reduce or otherwise modify and probation violation bond amount.

IN THE GENERAL SESSIONS COURT FOR METROPOLITAN NASHVILLE-DAVIDSON COUNTY, TENNESSEE DIVISION _____

STATE OF TENNESSEE				
vs.	WARRANT NO.(S)			
	DATE OF REQUEST:/			
	REQUESTED BY:			
	BAR ID:			
SET ASIDE ORDER It appearing to the Court that there has heretofore a Conditional Forfeiture has been entered by the Court against the above-named Defendant, and it further appearing to the Court that the Defendant has shown to the Court good cause why the Conditional Forfeiture should be set aside; It is therefore ORDERED, ADJUDGED and DECREED that the Conditional Forfeiture in Division heretofore entered against the Defendant is hereby set aside upon payment of the forfeiture costs.				
ENTERED this day of	, 20			
	JUDGE DIVISION			
THE PARTIES SEEKING THE SET ASIDE ORDER SHALL PRESENT A COPY OF THE FILE JACKET AND A COPY OF THE AFFIDAVIT ON THE WARRANT AT THE TIME OF THE REQUEST.				
DO NOT WRITE BELOW THIS LINE - CLERK'S USE ONLY				
Court Date://200 at				

To request handicapped accommodations please contact (615) 862-4260.

IN THE GENERAL SESSIONS COURT FOR METROPOLITAN NASHVILLE-DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE

vs		WARRANT N	0
ORDE	ER OF CO	<u>NTINUANCE</u>	
It is hereby Ordered that the abo at: is hereby CONTINUED the signed.			
	Coun	sel	
			Defense
TO THE PARTY SEEKING THE COBY THE CLERK:	ONTINUAN	NCE: INITIAL P	ERSONS TO BE NOTIFIED
TO THE CLERK: YOU ARE HERI INITIALED BELOW.	EBY ORD	ERED TO NOT	FY ONLY THE PERSONS
 Notify the victim Witness Off Send a cancellation and new Off Notify each witness listed on Notify the defendant. Notify the defense Counsel. Notify the Office of the Distriction Check for co-defendant(s), and 	Court date t the warrant ict Attorney	<i>'</i> .	
If the continuance is granted at notice is sufficient, except for police w days, telephone the above-listed persor	ho must rec	eive a cancellatio	n notice; if fewer than five (5)
ENTERED THIS		day of	
JUDGE This case is continued to(Month) COURT ROOM NUMBER		(Year)	at (Time)
		, Clerk. To requ	est handicapped accommodations
			entact (615) 862-4260.

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE)
VS.)
NOTICE PURSUANT TO DA	AVIDSON COUNTY LOCAL RULES
This matter was heard on	, 20 with the undersigned serving as
appointed counsel for the Defendant. Cou	unsel hereby notifies the Davidson County Criminal
Clerk and the Defendant that:	
I am willing to continue wi	ith appointed representation of this Defendant upon
arraignment in Criminal Court.	
I am NOT willing to continue	with appointed representation of this Defendant upon
arraignment in Criminal Court.	
Defendant/Client is: Incarcer	ratedBond/PTR
	Respectfully submitted,
	Name BPR#
	Address
	Phone
<u>CERTIFIC</u>	CATE OF SERVICE
	of this notice to the Davidson County Criminal Clerk of, 20 via: hand delivery U.S.
	Attorney of Record

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE)	
VS.)	
NOTICE PURSUANT TO DA	VIDSON COUNTY LOCAL RULES	
This matter was heard on	, 20 with the undersigned serving	as
appointed counsel for the Defendant. Cou	nsel hereby notifies the Davidson County Crimin	nal
Clerk and the Defendant that:		
I am willing to continue wit	h appointed representation of this Defendant up	on
arraignment in Criminal Court.		
I am NOT willing to continue	with appointed representation of this Defendant up	on
arraignment in Criminal Court.		
Defendant/Client is: Incarcera	tedBond/PTR	
	Respectfully submitted,	
	Name BPR#	
	Address	
	Phone	
<u>CERTIFIC</u>	ATE OF SERVICE	
	of this notice to the Davidson County Criminal Cle of, 20 via: hand delivery U	
	Attorney of Record	

ORDER ADOPTING RULES

	adopted for the Metropolitan General Sessions
Court for Davidson County and will take effect	June 1 , 2024.
The Salvinam	· Many
JUDGE GALL B. ROBINSON	JUDGE MARCUS FLOYD
Division I	Division VII
JUDGE MELISSA BLACKBURN Division II	JUDGE RACHEL L BELL Division VIII
MIDGE AND EGGODAD	
JUDGE ANA ESCOBAR	JUDGE LYNDA JONES
Division III	Division IX
allegia Walker Budy) com (elem
JUDGE ALLEGRA WALKER BIRDINE	JUDGE SAM COLEMAN
Division IV	Division X
JUDGE ROBIN KIMBROUGH HAYES Division V	John Clary Holt JUDGE JOHN AARON HOLT Division XI
JUDGE JIM TODD Division VI	