

HONORABLE JOSHUA RIBA

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Judicial Practice Preferences
Circuit Criminal
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Courtroom 2A

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Last Updated: 7 February 2025

(** *substantive* changes from the previous
version are highlighted **)

Please note: Judge Riba's written practice preferences are an effort to codify the procedures that are currently in effect. These are meant to be guidelines to facilitate the efficient movement of cases through the section(s) over which Judge Riba presides. These guidelines do not relieve anyone from adhering to any statutory and/or procedural requirements nor any requirements found in the [Administrative Orders of the Sixth Judicial Circuit](#). Additionally, these practice preferences are subject to change. Judge Riba will make every effort to ensure that changes are widely available, and with as much notice as possible.

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Communication with Chambers

- The Judicial Assistant is not permitted to answer legal questions, give advice, or explain your situation to the Judge. Your opportunity to speak to the Judge happens in Court only.
- The Judicial Assistant is typically available from 8:30 AM – 12:00 PM and from 1:00 PM – 4:30 PM Monday through Friday, excluding court holidays. Although the Judicial Assistant may send communications outside of these hours, the Judicial Assistant may not respond to incoming communications.
- Communications and submissions of documents via e-mail are acceptable and preferred. However, all motions and pleadings must be filed with the Clerk of Court.
- Substantive *ex parte* communications sent to the Court, regardless of how they are sent, will be filed in the court file. Communications solely related to the scheduling of hearings are not substantive.
- Please be advised that all e-mail communications sent to the Court are subject to public records requests.
- In an effort to facilitate the efficient and prompt processing of cases, as well as to maintain an accurate record of conversations with chambers, Judge Riba *prefers, but does not require*, that parties utilize electronic communication (e-mail) when contacting chambers. Telephone calls may be followed-up with an e-mail confirmation by Judge Riba's Judicial Assistant.
- Communications to the *section e-mail address* (crcrimw2@jud6.org) are monitored even when the Judicial Assistant is out of the office.

Pretrial Conferences

Sign-Up List

- Because most pretrial conferences are conducted on mass-motion dockets, and as a courtesy to attorneys who appear in multiple courtrooms/locations, attorneys not assigned to Judge Riba's division may sign up in court, *prior to the start* of the court session.
- E-mailed submissions asking to be placed on a sign-up list will not be accepted.
- If an attorney is not present when their case is called, the Court will continue down the sign-up list and call that attorney's case when they return to the courtroom.
- Attorneys assigned to the division should be prepared to address their cases at the beginning of the court session. The Court will call those cases if attorneys on the sign-up list are either not ready or not present.

Defendant's Presence

- Unless properly waived pursuant to Rule 3.180, defendants shall be present at all pretrial conferences.
- A defendant must be present if required by Court, regardless of any previous waiver.
- A defendant's presence *should not* be waived if counsel has not had an opportunity to discuss the case with them.
- A defendant's presence *may not* be waived if speedy trial has not or will not be waived and the case will be set for a trial.
- Unless previously approved by the Court, defendants must be present at the final pretrial conference prior to their trial **and the calendar call**.

Plea Negotiations

- Plea negotiations may be made between the defendant and the State in advance of or at the pretrial conference.
- A defendant may make offers to the Court, but the Court will not engage in plea negotiations unless specifically invited to do so by the defendant.
- Any plea offers should be placed on the record.
- The Court reserves the right to reject any negotiated dispositions between the parties.

Continuances

- Generally, the Court will not accept *ex parte* motions to continue pretrial conferences.
- With the express assent of the opposing party, attorneys may file a written motion and order to continue a pretrial conference no later than noon on the Friday of the week *prior* to any pretrial conference.
- Motions must fully set forth grounds necessitating the continuance, contain a waiver of speedy trial, and must be with the consent of opposing counsel.
- Oral motions are acceptable and will be considered in open court during the pretrial conference.
- Oral motions will also be accepted in open court *prior* to a pretrial conference, as long as opposing counsel is present and the Clerk of Court is made aware that the matter will be addressed *in advance*.

Miscellaneous Issues

- The Court will not discuss any aspect of a case, except scheduling matters, unless the assigned counsel for both the State and defendant are present.

Pretrial Motions

Filing of Motions

- As it may take several days for motions to appear on the docket, attorneys should provide the Court with a courtesy copy of any motion filed through the E-Portal.
- Courtesy copies may be provided by fax, e-mail, or in open court.
- Absent good cause, all pretrial motions (motions to dismiss, motions to suppress, motions *in limine*, pretrial evidentiary matters, etc.) must be filed at least fifteen days before trial.
- Absent good cause, motions filed within fifteen days of trial will not be considered timely.

Scheduling of Hearings

- A motion must be filed *prior* to requesting a hearing.
- Generally, non-substantive motions (most bond motions, motions filed pursuant to Rule 3.134, motions to compel, motions with brief legal argument only, etc.) may be scheduled for a hearing with the Court's Judicial Assistant.
- If requested prior to noon, hearings on bond motions and motions filed pursuant to Rule 3.134 *may* be scheduled for the following day.
- Generally, Judge Riba will schedule all substantive/evidentiary motions in open court. Hearings will not be scheduled without a written motion being filed and copies provided to the Court and the State.
- When appropriate, and with consent of opposing counsel, some *ore tenus* motions will be considered in open court.
- If a motion has not been heard prior to the trial, attorneys will be prepared to litigate any remaining issues on the day of trial, unless good cause shown.

Continuances

- Due to the size of the Court's dockets, motions to continue a pretrial motion hearing *must* be made as soon as practicable after an attorney becomes aware of the need for a continuance.

Defendant's Presence

- Cases will be set for a pretrial conference at the same time as substantive motion hearings.
- Absent prior Court approval and good cause, the defendant *must* be present for all pretrial motion hearings.
- If a ruling is made at the time of the motion hearing, attorneys should be prepared to discuss the case and the defendant should be prepared to resolve the case or set it for trial.

Change of Plea Hearing

- Hearings for a change of plea should only be set if the attorney has spoken with their client in advance and has a good faith basis to believe that the defendant wishes to change his or her plea. **When scheduling the hearing, the parties should be prepared to address whether it is a negotiated plea, offer to the Court, or open plea.**

Discovery Issues

- Opposing counsel must confer and make a good faith attempt to resolve discovery matters without a hearing.
- If a hearing is necessary, it should be scheduled either in open court with opposing counsel present or with the Court's Judicial Assistant *and* prior agreement of opposing counsel.

Trial

Pretrial Order

- In certain cases, the Court may file a pretrial order when a case is set for trial.
- The parties must comply with any order setting a case for trial.
- Failure to comply with an order setting a case for trial may result in sanctions for that party, such as the exclusion of witnesses/evidence, the waiver of motions, or other penalties as set forth in any such order.
- Regardless of whether the Court enters a pretrial order, any amended charging document, witness list, or evidence list filed within fifteen days of the date of trial shall require *prior* authorization of the Court.

Motion to Continue

- Absent good cause, motions to continue a trial must be filed in writing, at least two weeks prior to the trial.
- A motion to continue a trial will be heard as soon as practicable.

Final Court Appearance Before Trial/ Calendar Call

- To avoid cases languishing, the Court will set matters for trial when the parties request that a case be set for trial, when a case reaches a previously determined “last” pretrial conference, or when a case has been pending for one year, whichever comes first.
- Generally, when setting cases for trial, the Court will also schedule a final pretrial conference prior to the trial.
 - Unless specifically permitted by the Court in advance, the Defendant *must* appear at the final pretrial conference prior to the trial.
 - Absent the Court’s approval or good cause, a defendant’s failure to appear at the final pretrial conference prior to trial shall result in both the Court issuing a capias and the Court removing the case from the trial calendar.
- In an effort to address the increase in cases pending in the section, the increase in the number of cases being set for trial, and the finite resources of the Court, the Court will schedule a calendar call in all cases that are set for trial.
 - Generally, the calendar call will be held at 9:00 AM on the Friday of the trial week immediately preceding the trial. As these hearings are scheduled during a trial week, *all parties and counsel who will try the case must appear promptly at 9:00*. If there is no court on that Friday, the calendar call will be held sometime during the trial week preceding the trial.
 - Unless *specifically permitted* by the Court in advance, the Defendant *must appear* at the calendar call. Absent the Court’s *prior approval* or good cause, a defendant’s failure to appear at the calendar call shall result in both the Court issuing both the Court issuing a capias and the Court removing the case from the trial calendar.
 - At the calendar call, counsel for the State and defendant will announce their readiness for trial, including the availability of witnesses, any discovery issue, and the need for any additional pre-trial litigation.
 - The parties will place all plea offers on the record and in the presence of the defendant.

- Absent good cause, the calendar call will be the last opportunity for a defendant to enter a negotiated plea.
- If permissible, a defendant who enters a plea during the calendar call may set off sentencing to the day of his or her trial. If on bond, Defendants should have written confirmation that the bonding entity is willing to continue posting the bond pending sentencing.
- *Absent good cause, after the calendar call, the Court will not accept negotiated pleas. However, a defendant may enter an open plea to the Court.*
- At the calendar call, the Court will indicate the priority and order for all cases set for trial.
- If the Defendant enters an open plea after the calendar call, the defendant will be remanded pending sentencing.
- Absent good cause that arise after the calendar call, no motions, including motions to continue and motions in limine, will be considered after the calendar call.

Day of Trial

- Absent prior approval, the Court will only accept negotiated pleas on the day of trial upon a showing of good cause.
- Otherwise, any plea made on the day of trial will be an open plea.
- If possible, cases that will resolve should be set for a change of plea prior to the day of trial.

Voir Dire

- The Court will initiate voir dire.
- Attorneys for the State and the defendant will be given a reasonable amount of time to inquire of the venire.
- The Court may place reasonable time constraints on voir dire, depending upon the complexity of the case.
- Attorneys will not attempt to taint a venire.
- If the parties consent, challenges for cause may be made at the bench during voir dire.
- Additionally, if the parties consent, they may stipulate to release/excuse a member of the venire.
- Any member of the venire released for cause will not be excused until the end of voir dire or at an appropriate break in the proceedings. So as to avoid the possibility of tainting the venire, attorneys should not ask those excused/caused members of the venire any further questions, nor let them speak, during the remainder of voir dire.

Jury

- Attorneys and the defendant should remain seated when the jury enters/exits courtroom.

Objections

- No speaking objections should be made at trial.
- An attorney making an objection should stand and state the legal basis of an objection only.
- The Court will determine if it is necessary for further discussion or argument at the bench, however the attorneys may ask to approach the bench to make additional argument.
- Attorneys should at all times address arguments and comments to the Court, not to each other.

Conduct of Trial

- Attorneys shall have the Court Clerk pre-mark any exhibits to be introduced at trial.
- Attorneys will show exhibits to opposing counsel before approaching a witness.
- Attorneys should request permission to approach the bench, witnesses, or the Clerk.
- Attorneys will not approach the jury unless given permission from the Court.
- Unless entitled to a pretrial sentencing investigation, or good cause exists not to proceed to sentencing, defendants will be sentenced at the time of their plea or after a guilty verdict at the conclusion of the trial.

Appearance/Conduct at Hearings

- It is expected that all parties and litigants will adhere to [Sixth Judicial Circuit Administrative Order 2024-010 PA/PI-CIR](#).
- Rules of decorum are posted outside of the courtroom.
- All persons appearing before the Court shall be in appropriate attire.
- *Shorts and/or sleeveless shirts are not permitted.* Absent prior authorization from the Court, hats must be removed in the courtroom.
- Do not chew gum in the courtroom.
- Do not sleep in the courtroom.
- Electronic devices may not be used in the gallery.
- Persons appearing remotely should be cognizant of their appearance and surroundings. Persons appearing via Zoom shall be dressed in appropriate attire for the manner of their appearance.
- To maintain proper decorum, and to avoid distractions, the Court reserves the right to remove those who fail to comply with these instructions.

Scheduling Conflicts and Coverage Counsel

- If an attorney is unable to appear for a scheduled hearing, coverage counsel is permissible. However, coverage counsel should be *fully aware of all relevant matters* related to the case. Coverage counsel *must* also be aware of the attorney's schedule and capable of scheduling future hearings.
- In accordance with Rule 2.550, if an attorney is scheduled to appear in two different courts at the same time, they should arrange for other counsel to represent their client's interests.
- If an attorney is unable to arrange for coverage counsel due to conflicting court appearances, the attorney shall give prompt written notice of the conflict to opposing counsel, the clerk of each court, and the presiding judge of each case, if known. The *Court* will confer with the other judge in an effort to avoid the conflict.

Substitution/Withdrawal of Counsel

- Florida Rule of Judicial Administration 2.505(e)(3) requires that the client agree *in writing* to a request for substitution of counsel.
- Judge Riba will not consider proposed orders approving a stipulation for substitution of counsel without the written consent of the client.
- A party may consent to the substitution under oath before the Court and file their written consent at a later date; however, the Court will not schedule a hearing solely on this matter.
- Court-appointed counsel with an ethical conflict should submit their motion to withdraw to the Chief Judge.
- Privately retained counsel seeking to withdraw from a case shall file a motion, request a hearing date from the Court's Judicial Assistant, and properly notice their client.
- The Court may consider proposed orders for withdrawal of privately retained counsel in chambers if accompanied by a motion and a stipulation signed by all parties. However, if no signed stipulation is provided, a hearing will be required.
- The substitution or withdrawal of counsel, in and of itself, may not constitute good cause for a continuance.

Remote Appearances/Proceedings

Pretrial Conferences

- In accordance with Rules 2.530 and 3.116, the use of communication technology is permissible for remote appearances at pretrial and status conferences.
- As the Court's dockets are large, and court sessions busy, and in an effort to minimize unnecessary distractions of the Court's Judicial Assistant, absent an *unanticipated exigency*, any request to appear remotely at a pretrial conference must be made *at least one week prior* to the scheduled pretrial conference.
- Untimely requests to appear remotely, absent good cause shown, will not be permitted.
- As most pretrial conferences are conducted during mass-motion calendars, sometimes with a large number of cases to be called, remote appearances will be taken at the *Court's* availability.
- All participants appearing remotely should be ready and available when the Court is ready to call the case. *Do not contact chambers to advise the Court's Judicial Assistant that a participant is "waiting," or "ready" for the case to be called.*
- The Court reserves the right to require a defendant to appear in person.
- Remote appearances are not permissible for appearances where the Court has directed a "mandatory" appearance.
- Absent prior court approval, remote appearances are not permissible for the final scheduled pretrial prior to a trial.

Evidentiary Matters

- In accordance with Rule 2.530, the use of communication technology is permissible for appearance at a motion hearing.
- A party seeking to utilize such technology must file a motion *in advance* of the hearing, the opposing party must consent, and there must be an express waiver of any applicable right of confrontation.

In All Matters

- Remote appearances will be by way of either the Court's telephonic hearing line or the audio-video platform Zoom.
- Matters requiring the taking of testimony *must* be conducted via Zoom, with the participant's camera activated.
- Zoom meeting and login information will only be sent to attorneys or self-represented parties. It is the attorney's/self-represented party's responsibility to share the login information with clients, court reporters, witnesses, or anyone else who is to attend the hearing.
- It is also the attorney's/self-represented party's responsibility to share these guidelines with invitees and ensure their compliance.
- No unauthorized recording of remote hearings is permitted. This includes, but is not limited to, audio recording, video recording, or screen captures.
- All participants shall dress appropriately and govern themselves accordingly as if appearing in-person.
- Upon joining the meeting, *all participants shall rename themselves*, if necessary, so their identity is easily identifiable to the other participants. Participants should be cognizant of how they are identified, as inappropriate names will be admonished and may be excluded to the virtual court hearing.
- Participants should be cognizant of their surroundings and background. Virtual backgrounds are acceptable, but should not be a distraction. Similarly, virtual backgrounds should not contain offensive images or messages.
- Participants should make their best efforts to limit background noise. Participants should keep themselves muted when not talking to avoid disruptions.

Considerations Regarding Remote Appearances

- Due to nature of a criminal division, including large dockets and a frequent inability to speak with either their client or the assigned prosecutor, the Court strongly suggests that attorneys request remote appearances sparingly.
- Remote appearances should not be utilized for older cases or cases where a defendant is in custody.
- The manner of remote appearance is within the discretion of the Court.
- Should the Court believe that an attorney is misusing the ability to appear remotely, or by doing so causing unnecessary delay, or otherwise frustrating the efficient handling of a case, the Court may find good cause to decline such future requests from that attorney.
- When setting future hearings, the Court may require the in-person attendance of either the Defendant or their counsel. Absent good cause, such a requirement will prevent the ability for a remote appearance.
- A failure to appear during a remote proceeding may nonetheless result in the Court issuing a *capias*.
- Generally, remote appearances taken at end of calendar. However, participants appearing remotely should be ready for the case to be called at any time after the start of the calendar, as Court cannot predict when cases will be ready to be called or how long a calendar it will take.

Calendar

- Typically, trials are conducted every other week. During trial weeks, Judge Riba only has morning calendars. Judge Riba attempts to keep the calendars during trial small so that trials may begin as soon as practical.
- In non-trial weeks, Judge Riba's calendar is generally as follows:

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
9:00 AM	Pretrials & Non-substantive motions (ASA: Prochut)	Pretrials & Non-substantive motions (ASA: Gelep)	Pretrials & Non-substantive motions (ASA: Giannini)	Pretrials & Non-substantive motions (ASA: Pollard)	Pretrials & Non-substantive motions (ASA: Colyer)
1:30 PM	VOPs (Pretrials, Arraignments, Final Hearings) & Arraignments	Pretrials & Non-substantive motions (ASA: Moeller)	VOPs (Pretrials, Arraignments, Final Hearings) & Arraignments	Substantive Motions (SET BY THE COURT)	Substantive Motions (SET BY THE COURT)
3:30 PM	Substantive Motions (SET BY THE COURT)	Substantive Motions (SET BY THE COURT)	Substantive Motions (SET BY THE COURT)		

- Morning calendars begin at 9:00 AM. Afternoon calendars begin at 1:30. Judge Riba makes every effort to take the bench promptly. Parties should be ready to address all cases at the scheduled hearing time.
- Generally, the Court's Judicial Assistant will schedule non-substantive motions and Judge Riba will schedule substantive motions in open court with counsel present.