

Appendix – Dane County Circuit Court Rules

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

Case:

STANDARD SCHEDULING ORDER
CRIMINAL CASES IN DANE COUNTY, WISCONSIN

Caption:

See Circuit Court Rule 224

Unless otherwise ordered by the assigned trial judge the following Scheduling Order shall control all felony (CF), misdemeanor (CM) and criminal traffic (CT) cases in Dane County Circuit Court:

DISCOVERY

In all CF, CM and CT cases, the State shall make reasonable efforts to provide all available materials required by sec. 971.23(1) Wis. Stats., to the defense within 20 days of arraignment and must provide all required materials within a reasonable time prior to trial. The State must provide additional materials forthwith as they become available.

In all CF, CM and CT cases, the defense shall make reasonable efforts to provide all available materials required by sec. 971.23(2m), Wis. Stats., to the State at least 30 days before trial and must provide all required materials within a reasonable time prior to trial. The defense must provide additional materials forthwith as they become available.

MOTIONS

Motions must be in writing and state with particularity the grounds thereof and the order or relief sought pursuant to sec. 971.30(2) Wis. Stats. It is the responsibility of the moving party to advise the court at time of final conference when a motion requires an evidentiary hearing. The hearing will be heard prior to trial unless the court determines otherwise.

Motions to dismiss a complaint must be filed prior to the preliminary hearing. Motions to change venue must be filed at or before the arraignment unless the court permits otherwise for good cause. The prosecution and defense will have 20 days from arraignment to file motions, including motions by the prosecution for leave to file an amended information and by the defense for change of venue unless otherwise permitted by the preliminary hearing judge or commissioner and/or trial judge. If an amended information is filed, arraignment on the amended information will occur at the hearing on the motion for leave to file the amended information which may be combined with a final conference or other hearing. Motions challenging the sufficiency of evidence at a preliminary hearing and/or challenging the jurisdiction of the court must be filed within 20 days of arraignment.

All other motions, including motions in limine, shall be filed no later than 7 calendar days after the final pre-trial conference. Parties are encouraged to file motions which will be dispositive or which will require significant court time sooner than this deadline if possible.

SUBSTITUTION OF JUDGE

In Felony cases the trial judge will be assigned and the parties notified thereof at or before the initial appearance.

Substitution of the judge or commissioner assigned to the preliminary hearing must be made at the initial appearance or 5 days prior to the preliminary hearing unless the preliminary hearing judge or commissioner otherwise permits. If possible, another circuit judge, reserve judge or court commissioner will be assigned to conduct the preliminary hearing at the scheduled time. After bind over or waiver of the preliminary hearing, if the preliminary hearing judge is also the assigned trial judge, and the defendant files a substitution of the trial judge, the judge shall conduct arraignment pursuant to section 971.20(9) Wis. Stats. (Substitution of Judge)

In all CT, FO, CM and TR cases the defendant shall have 20 days after the initial appearance to file a request for substitution of the assigned judge.

TAPES, CDs, DVDs AND SIMILAR EVIDENCE

Unless otherwise ordered by the court, any party wishing to utilize evidence at trial contained in an audiotape, videotape, CD, DVD or other recorded format must prepare a transcript and provide a copy of the transcript to the opposing party by 4:00 pm on the Thursday before trial. unless the parties and court review the item in advance and determine that a transcript is not needed. Both parties must then meet to discuss a potential stipulation as to the accuracy of the transcript. Counsel shall have sufficient copies available for the jury to review, if necessary.

JURY INSTRUCTIONS

Requested jury instructions are to be filed with the clerk of the trial court by 4:00 pm the Thursday prior to the week of trial. Filing may be in writing, by compatible computer disc or by email. Requests for standard instructions found in the Wisconsin Jury Instructions – Criminal may be requested by number and title, except substantive instructions on the specific charge(s) should be submitted in final form.

Special instructions requests are to be typed in full text on 8.5" x 11" paper with no more than a single instruction to a page. Two copies shall be provided, one copy in a form appropriate to presentation to the jury, and one copy showing citations of authority.

Modified instructions may be filed by making legible hand written changes to standard instructions. If there are modifications from the standard instruction, case citation must be included to support the change.

DEADLINE FOR RESOLUTION OF JURY CASES

In an effort to reduce the inconvenience and expense to jurors, witnesses and other litigants and the taxpayers, parties shall notify the court in writing or by telephone by 4:00 pm on the Thursday prior to jury selection that their case has been resolved. Unless there are extraordinary circumstances, the courts will thereafter only accept pleas to, or dismissal of, the original charge(s). Pleas will be taken at the time scheduled for jury selection, unless otherwise notified by the clerk. Jury selection morning will not be used as time for negotiations.

CLOTHING FOR INCARCERATED DEFENDANTS AND WITNESSES

Incarcerated defendants shall be permitted to dress in 'street clothes' for all appearances before a jury. Defense counsel shall advise the Dane County Sheriff's Office of the arrangements for changing defendants' clothes 72 hours before the court appearance. After completion of the trial and jury deliberations, due to the hour of the day and/or lack of sheriff personnel, the court may permit the defendant to appear in jail clothing.

If the inmate is a witness (other than the defendant) a court order is required if that witness is to appear in street clothes. Counsel should prepare such an order 5 days prior to the trial and provide it, after signature, to the proper jail authorities. Counsel is responsible for providing the clothing to the bailiff's office as noted above.

DEFENDANTS APPEARANCE IN COURT

DA pretrials shall be attended by counsel and the defendant unless a written authorization permitting counsel to appear for the defendant is filed. Self-represented parties must appear

All defendants and counsel must be present at Court Settlement Conferences unless, due to exceptional circumstances and upon motion by the defense, the judge or court commissioner enters an order authorizing non-appearance. If the defendant is in-custody he/she will be moved to the Courthouse Custody Control center for discussion with counsel and negotiation of potential pleas.

Final pretrials shall be attended by counsel, if any, and the defendant. The defendant must appear unless excused by the court, even if a written authorization is presented. If the defendant is in custody, attendance is at the discretion of the court.

All persons charged with a felony must be present at the initial appearance unless, due to exceptional circumstances and upon motion by the defense, the judge or court commissioner enters an order authorizing non-appearance. An attorney for a person charged with a non-felony may appear for a defendant at the time of initial appearance with proper written authorization

At the court's discretion the defendant may appear by telephone or video-conferencing.

ARRAIGNMENT

Arraignment will ordinarily be conducted by the preliminary hearing judge or commissioner at the conclusion of the preliminary hearing if there is a bind over or after a waiver of the preliminary hearing is accepted. [Dane County Circuit Court Rule 209(1)]

Arraignment on an amended information may be heard at the next scheduled court date.

WRITS FOR APPEARANCE OF DEFENDANTS AND WITNESSES

The state is responsible for securing the appearance of an incarcerated defendant for all necessary hearings through sentencing when the location of the defendant is known to the state. This includes evidentiary hearings, trial and the sentencing hearing. The party calling an incarcerated witness is responsible for securing the appearance of the witness and notifying the bailiff's office in advance. All writs shall be delivered to the Sheriff's Office two weeks in advance if possible and at least one week in advance of the scheduled event (30 days if the defendant or witness is in federal custody). The office or individual that prepared the writ is responsible for notifying the Sheriff's Office if the writ is canceled.

RESTITUTION

The specific amount of restitution should be ascertained by the district attorney by the time of sentencing and is to be included in the judgment of conviction. Upon request and at the discretion of the court an order for restitution may be delayed for up to 90 days from the date of sentencing, but no longer. If such an order is not presented within the 90 days, the judge may void the condition of restitution. The clerk of court office shall provide restitution information to the probation office.

SANCTIONS FOR NONCOMPLIANCE

Unless good cause is shown for failure to comply, the following sanctions may be imposed, including but not limited to: refusal to honor any plea negotiations in a case, preclusion of witnesses, evidence, claims, or defenses; dismissal of the action; adjournment of the trial; contempt sanctions imposed against counsel; waiver of oral argument on legal issues; imposition of costs.

This order is effective as of the date below. Stipulations between parties that extend deadlines or modify requirements of this order will not be honored or enforced by the Court absent express order.

Dated this ____ day of _____, 20__

Judge