

County Court, El Paso County, Colorado Court Address: 270 South Tejon Colorado Springs, CO 80903 D04_Courts_Div18@judicial.state.co.us	
THE PEOPLE OF THE STATE OF COLORADO v. DEFENDANT	Δ COURT USE ONLY Δ
	Case Number: ALL CR CASES Division: 18 Courtroom: S505
CASE MANAGEMENT ORDER- CRIMINAL	

Except for good cause, the following policies and time limits shall apply for all cases filed in Divisions 18 of the El Paso County Court.

SCHEDULING AND PRE-TRIAL PROCEDURE

The Court’s Criminal Docket days are every Thursday. The 8:30 matters include Arrest Warrant/Summons returns, Appearance of Counsel, Competency Reviews, Bond Hearings, Arraignment/Dispositions, and Post-Conviction Reviews. All matters that are relatively quick will be called up first. Re/Sentencings will be held at 10:00. Each Defendant is entitled to two dispositional hearings (a Preliminary Hearing is considered a dispositional hearing) following their appearance in DST Court. For unique case circumstances (such as voluminous discovery or aggravated victim rights cases) the court may afford a third dispositional setting. The applicable speedy trial period will not begin to run until a case has been set for trial.

DISCOVERY

Unless otherwise agreed upon by the parties and approved by the Court, discovery shall be strictly controlled by Rule 16 and must be completed no later than 35 days before trial. Motions requesting discovery required by that rule are NOT to be filed, C.R.Crim.P 16 (Part V(a)). The District Attorney is ordered to provide the NCIC and CCIC information available on all of their lay witnesses only. The Court expects the District Attorney to provide discovery not only of the information in its possession but also of any information relevant to the case in possession of the various investigative personnel and law enforcement pursuant to C.R.CRIM.P. 15 (Part (I)(b)(4) – this means the DA must exercise due diligence.

In addition, the Court hereby issues the following directives:

District Attorney:

- Must comply with C.R.CRIM.P 16;
- Must provide to the Defendant and file with the Court a good faith list of witnesses, including addresses and telephone numbers, no later than 35 days before trial;

- Must expressly designate any expert witness as such and must provide a copy of the expert's CV at the time of endorsement regardless of whether the expert has authored a report or not; any report must also be provided;
- Late endorsements will only be considered upon proper motion, notice and hearing;
- Must provide to the Defendant any C.R.E. 404(b) materials;
- Must provide to the Defendant a list of any prior felony conviction, and any juvenile convictions and misdemeanors directly related to credibility of the Defendant which are known to the District Attorney;
- Must provide to the Defendant all witness statements obtained by the District Attorney's office during trial preparation which are materially different from any statements previously made by any witness; and
- Must provide written notice to the Defendant of any benefit given to a civilian witness in exchange for his/her testimony.

Defendant:

- Must comply with C.R.Crim.P 16; Motions for Specific Discovery shall be separately filed.
- Must provide to the District Attorney and file with the Court the Defendant's theory of defense, good faith list of witnesses, including addresses and telephone numbers, designation of affirmative defenses, and notice of alibi no later than 35 days before trial;
- Must expressly designate any expert witness as such and must provide a copy of the expert's CV at the time of endorsement regardless of whether the expert has authored a report or not; any report must also be provided;
- Late endorsements will only be considered upon proper motion, notice and hearing; and
- Must provide to the District Attorney any C.R.E. 404(a)(2) materials within 14 days of trial.

SUBPOENAS FOR THE PRODUCTION OF DOCUMENTS

Subpoenas issued pursuant to C.R.Cr.P. 17(c) must be accompanied by a written motion filed with the court and served upon opposing counsel, the person or entity in possession of the document or item, and any third party who may claim a privilege, right, or interest in the document or item subpoenaed. Said motion must demonstrate the legal basis for overcoming any associated privilege in the document or item.

The court makes Thursdays at 8:30 a.m. a regular, presumptive time for SDT returns provided the court's docket has not been modified due to a holiday or vacation. All SDT return dates must provide opposing counsel, the subpoenaed party, and any person claiming a privilege in the subpoenaed items at least one week (7 calendar days) notice of the return date.

The party issuing the subpoena must notify the court of the fact of the issuance of the SDT at least 48 hours prior to the return date so that the case can be added to the docket. Legal argument regarding the overcoming of any privilege will be heard on the return date

MOTIONS/REDACTIONS

All motions and notices, including but not limited to those required by CRS §13-25-129, §16-3-309, CRE 404(b), and C.R.Crim.P 7(e), must be filed within **(35)** days following the day the Defendant enters a not guilty plea and sets the case for trial. If the 35th day falls on a weekend or legal holiday, the 35th day shall be the following business day. All motions shall be written to advise the Court of the

specific relief sought and the specific factual basis for the issue presented to the Court for determination. “Boiler plate” motions are strongly discouraged, and each motion shall include the applicable law as applied to the specific facts of the case at issue. Except for newly released appellate opinions, the Parties are dissuaded from citing legal authority for the first time at the Hearing. Copies of newly released caselaw upon which counsel intends to rely should be provided to opposing counsel and the Court prior to the commencement of the Hearing.

If motions are filed, the opposing party has seven (7) days to respond in writing, including legal authority. It is the moving Party’s obligation to set all Motions for Hearing by contacting Court Staff via e-mail within seven (7) days following the filing of the Motion at: D04_Courts_Div18@judicial.state.co.us. **Opposing counsel must be included on all correspondence to the court using their direct e-mail address(es).** Failure on the part of the Moving Party to schedule a Motions Hearing will result in the Motion being deemed abandoned. The Defendant’s presence is required at the motion hearing.

To the extent the parties anticipate submitting any motion(s) in limine that might require significant legal argument and/or legal briefing (such that arguments during trial might cause the jury to be kept waiting), such motion(s) must be filed seven days prior to the pretrial readiness conference. Unless good cause is shown for such a late-filed motion in limine, the Court will not consider any such motion(s) during the trial.

If there is a possibility that electronic/digital evidence (officer body cameras, 911 calls, etc.) may be introduced at trial, the party challenging introduction of such or requesting any redactions shall provide the opposing party with a description of the portions and the approximate time stamps for the proposed redactions and shall set it for hearing. A “Notice of Proposed Redactions” must be filed within (35) days following the day the Defendant enters a not guilty plea and sets the case for trial. If the 35th day falls on a weekend or legal holiday, the 35th day shall be the following business day. It is the Party requesting Redaction’s obligation to set requests for redaction matters for Hearing by contacting Court Staff via e-mail within seven (7) days following the filing of the Motion at: D04_Courts_Div18@judicial.state.co.us. **Opposing counsel must be included on all correspondence to the court using their direct e-mail address(es).** Failure on the part of the Moving Party to schedule a redaction Hearing will result in the Redaction requests being deemed abandoned. The Defendant’s presence is NOT required at a redaction hearing, but it is required only if a Motion hearing is also scheduled. The court will not entertain a redaction hearing at the pretrial readiness conference and the court does not treat these as motions in Limine, given the time intensive nature of the hearings, the redaction process, and the legal/evidentiary arguments associated with redactions.

JURY TRIAL PROCEDURES

JURY INSTRUCTIONS

Generally, all jury instructions, including contested jury instructions and proposed verdict forms from both parties (including case specific instructions, the joint list of witnesses, exhibits and definitions, and an agreed upon statement of the case) must be delivered to opposing counsel and to the Court no later than one week before the scheduled Jury Trial date. All contested instructions should include citations to applicable law and COLJI. The Court requires the proposed instructions and verdict forms to be filed in an editable format.

OPENINGS AND CLOSINGS

Unless additional time is requested at the pretrial readiness conference, the Court will allow up to fifteen (15) minutes for opening statements, and up to thirty (30) minutes for closing. The People may reserve

rebuttal out of their thirty (30) minutes for closing. No exhibits may be published to the jury during opening statements unless agreed to between the parties in advance.

VOIR DIRE

Any party requesting a special juror questionnaire shall present the proposed questionnaire to opposing counsel and the Court not later than the motions hearing date.

A seating chart will be completed by the Court Judicial Assistant and distributed to counsel and all court staff.

Potential jurors shall be questioned using the “modified civil” method by which all panel members are to be questioned regardless of where they are seated. Unless otherwise ordered, the last-seated juror will serve as the alternate. If the Court seats more than one alternate, the Court will discuss with counsel at the pretrial readiness conference which jurors will be designated as alternates.

Questions to the jury panel shall focus on bias, fairness, impartiality, and legal impairments to jury service. Hypothetical questions concerning potential evidence in the case should be avoided and will generally not be allowed. Promises from jurors shall not be solicited. Peremptory challenges are to be exercised pursuant to Colo.Crim.P. Rule 24(d). Batson challenges must be made immediately upon the announcement of a questionable strike.

Unless additional time is granted at the motions hearing, each side will be allowed thirty (30) minutes for voir dire.

SEQUESTRATION

Potential witnesses shall not be present in the courtroom for the testimony of other witnesses. In every case, pursuant to C.R.E. 615, sequestration of witnesses is ordered for all testimony at preliminary hearings and trials, except for any advisory witness designated by either party. Counsel shall advise their witnesses of the sequestration order, as well as any other in limine orders.

JURORS

In most cases, jurors will be allowed to ask questions and the jury will receive instructions regarding questions. The Court will consult with counsel about any juror question that may be objectionable. Jurors will be provided forms for questions in the juror notebooks. Any objections to permitting juror questions must be raised before commencement of the Court’s remarks immediately preceding opening statements.

Division 18’s trial days will generally run from 8:30 AM – 5 PM, with a 1-hour break for lunch and a mid-morning and mid-afternoon break. The Court will break on Thursdays to handle its regular criminal docket.

Counsel should confer and make every effort to schedule witnesses to ensure an orderly and timely presentation of evidence and **should ensure that there are no gaps between witnesses**. Counsel must address contested matters outside of normal trial hours so that jurors will not be kept waiting.

GENERAL PROVISIONS

No juror questions will be permitted if COVID-19 Pandemic Trial Protocols are in place.

The in-custody Defendant shall be dressed for trial. It is the responsibility of the defense attorney to ensure trial clothes for their client are delivered to Criminal Justice Center in advance of the trial date consistent with the El Paso County Sheriff's Office's policies and procedures. See Estell v. Williams, 426 U.S. 954 (1976).

Counsel should notify their staff and associates that when entering and exiting the Courtroom during jury trial, to do so as quietly and unobtrusively as possible. Entry and exit from the Courtroom during opening, instructions and closing is strongly discouraged.

IT IS THUS ORDERED, 2 August 2022.

BY THE COURT:



Monica J. Gomez
District Court Judge