

Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET  
Director and  
State Court Administrator



JOHN MCCORMICK  
Assistant Court Administrator  
Judicial Programs and Services

RICHARD A. STEFANI  
Deputy Director  
Information Technology

**MEETING NOTICE AND AGENDA**

**Commission on Statewide Rules of Criminal Procedure  
Videoconference**

**Date and Time of Meeting:** September 2, 2020

**Place of Meeting:** Remote Access via Blue Jeans

***All participants attending via teleconference should mute their lines when not speaking; it is highly recommended that teleconference attendees use a landline and handset in order to reduce background noise.***

**AGENDA**

- I. Call to Order
  - A. Call of Roll
  - B. Determination of a Quorum
  - C. Opening Remarks
- II. Public Comment
- III. Review and Approval of Previous Meeting Summary\* (**Tab 1; pages 3-9**)
  - A. August 5, 2020
- IV. Ongoing Reports/Status Reports
  - A. Jury Instructions Work Group
  - B. Settlement Conferences (**Tab 2; pages 10-11**)
- V. Statewide Rules Discussion
  - A. Local Rules of Practice
    - i. [Second Judicial District](#)
    - ii. [Eighth Judicial District](#)
  - B. Rule 4: Initial Appearance and Arraignment (**Tab 3; pages 12-14**)
  - C. Rule 16: Sanctions (**Tab 4; pages 15-16**)

- VI. Rules Approved During Previous Meeting
  - A. Rule 2: Case Assignment (**Tab 5; pages 17-18**)
  - B. Reviewed Rules (**Tab 6; pages 19-22**)
  
- VII. Other Items/Discussion
  - A. Rule Approval Process and Next Steps
  
- VIII. Next Meeting Date and Location
  - A. TBD
  
- IX. Adjournment

- Action items are noted by \* and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Jamie Gradick, (775) 687-9808 - email: [jgradick@nvcourts.nv.gov](mailto:jgradick@nvcourts.nv.gov)
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030)
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: [www.nevadajudiciary.us](http://www.nevadajudiciary.us); Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Nevada Supreme Court, 408 East Clark Avenue.

# TAB 1

Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET  
Director and  
State Court Administrator



JOHN MCCORMICK  
Assistant Court Administrator  
Judicial Programs and Services

RICHARD A. STEFANI  
Deputy Director  
Information Technology

**Commission on Statewide Rules of Criminal Procedure**

August 5, 2020

Noon

*Summary prepared by: Kimberly Williams*

**Members Present**

Justice James Hardesty, Chair  
Justice Abbi Silver, Co-Vice Chair  
Justice Lidia Stiglich, Co-Vice Chair  
John Arrascada  
Chief Judge Freeman  
Judge Herndon  
Darin Imlay  
Mark Jackson  
Christopher Lalli  
Luke Prengaman  
Lisa Rasmussen  
Judge Jim Shirley  
JoNell Thomas

**Guests Present**

Chief Judge Bell  
Sharon Dickinson  
John Petty

**AOC Staff Present**

Jamie Gradick  
Kimberly Williams

- I. Call to Order
  - Justice Hardesty called the meeting to order at 12:00 pm.
  - Ms. Gradick called roll; a quorum was present.
  - Opening Comments
    - Justice Hardesty noted going forward he will be focusing on voting members of the commission and informed attendees that an ADKT Order was filed removing Mr. Wolfson and Mr. Hicks and instating Mr. Lalli and Mr. Prengaman as voting members.
- II. Public Comment
  - There was no public comment.
- III. Review and Approval of July 1, 2020 Meeting Summary
  - The July 1, 2020 meeting summary was approved.
- IV. Ongoing Reports / Status Reports
  - Settlement Conferences
    - Justice Hardesty summarized a call he received from Judge Stockard reporting that he and Judge Shirley have successfully completed most of the settlement conferences that they have

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Supreme Court Building ♦ 408 East Clark Avenue ♦ Las Vegas, Nevada 89101

referred to one another. Justice Hardesty questioned if any communication has been made with other rural judges to also assist on the cases.

- Judge Shirley responded that they had not.
  - Justice Hardesty suggested a conference call be held with other rural judges to discuss the possibility of participating.
- Chief Judge Bell shared with the commission that the 8<sup>th</sup> has been conducting four settlement conferences a week and are anticipating to expand to six a week. Most of the cases have settled successfully.
  - Justice Hardesty questioned if all the judges with criminal cases are involved.
  - Chief Judge Bell responded that she has conducted a few settlement conference trainings with court staff. Senior judges, hearing masters, and civil judges with criminal experience are also assisting with the settlement conferences.
- Chief Judge Freeman shared that most of the settlement conferences in the 2<sup>nd</sup> district have been successful. Mr. Arrascada suggested a robust settlement program with more formality be established to address more cases.
- Justice Hardesty stated he would like to communicate with the public the efforts the courts are taking to move cases along through settlement conferences and requested Judge Shirley, Chief Judge Bell, Chief Judge Freeman, and Mr. Jackson to speak with the judges in their respective districts and get statistics or additional information on the efforts put forth to conduct the settlement conferences.

V. Statewide Rules Discussion (*Please see meeting materials for additional information*)

➤ Rule 2: Case Assignment (*pages 10-15*)

- Justice Hardesty asked the commission if everyone had time to review the Rule 2 draft by Mr. Prengaman (*page 14*) and if they had any questions or comments.
  - Mr. Lalli commented that ‘as’ should be removed from (a), (ii) ‘~~as~~ otherwise ordered...’ and (b), (iii) ‘~~as~~ otherwise ordered...’
    - Justice Hardesty agreed.
  - Mr. Imlay stated the rule as written would require a fundamental restructuring of his office. Mr. Imlay proposed using the draft submitted by his office (*pages 12-13*) instead.
    - Mr. Lalli pointed to the ‘opt out’ clause which would give Mr. Imlay’s office the ability to continue as is.
    - Mr. Imlay stated the ‘opt out’ clause is dependent on whomever is the Chief Judge in the district and suggests to make the ‘opt out’ language as part of the rule so it’s not dependent on the chief judge’s discretion.
    - Ms. Thomas agreed with Mr. Imlay and questioned if the rule is necessary when it’s flexible enough to be changed by the Chief Judge.
    - Justice Hardesty called for a vote on Rule 2 as drafted by Mr. Prengaman and amended by Mr. Lalli.
      - The motion passed.

➤ Rule 4: Initial Appearance and Arraignment (*pages 16-23*)

- Justice Hardesty started the discussion by working off the draft submitted by Mr. Prengaman and questioned Mr. Arrascada if he had any additional comments or edits to the draft.
  - Mr. Arrascada suggested replacing (b)(1) (i) and (ii) with the language used in (b)(1) (i), (ii), and (iii) of the Washoe’s Public Defender’s Draft (*pages 17-18*). Additionally Mr. Arrascada would like to amend his draft for (c) (*page 19*), to the language used in Mr. Prengaman’s draft for (c) (*Pages 22-23*).
  - Justice Hardesty questioned Mr. Imlay if the changes offered by Mr. Arrascada to Mr. Prengaman’s draft would be acceptable in lieu of his office’s submission.
  - Mr. Imlay stated it would be acceptable and questioned if the language in (a)(1), (v) and (b)(1), (v) would be included.
  - Justice Hardesty questioned Mr. Prengaman if he omitted (v) purposely.

- Mr. Prengaman stated it was intentional as a separate rule already addresses it.
- Justice Hardesty called for a vote on the draft submitted by Washoe County Public Defender's office if the draft should include the language found in (a)(1), (v) and in (b)(1), (v).
  - The commission voted not to include the language found in (a)(1), (v) and in (b)(1), (v).
- Justice Hardesty questioned if anyone had questions or comments on the suggestion made by Mr. Arrascada of replacing (b)(1), (i) and (ii) with the language used in (b)(1) (i), (ii), and (iii) of the Washoe's Public Defender's Draft (*pages 17-18*).
  - Mr. Lalli shared concerns with the way the Washoe draft is written, suggesting that the bail has to be set right at the time the indictment is being unsealed and filed with the court. Further the rule doesn't allow for flexibility at a later date.
  - Mr. Petty offered further clarification:
    - (i) if an individual has been indicted and has previously been through the court system and a bail amount has been set this rule keeps the bail amount presumptuously set at what it was. This can be changed.
    - (ii) if an individual is indicted and bail has not been set; this rule states a *Valdez-Jimenez* hearing must be held in a reasonable amount of time.
    - (iii) if an individual has been indicted and new charges that warrant and increase in bail then a *Valdez-Jimenez* hearing must be held in a reasonable amount of time.
  - Mr. Lalli stated the issue is that the bail amount is set when an indictment warrant is issued either with or without the defendant in custody. This should be reflected in the rule.
  - Mr. Prengaman gave further explanation stating the typical practice in the 8<sup>th</sup> and the 2<sup>nd</sup> is to only ask for additional bail if the circumstances have changed. Mr. Prengaman suggested that Mr. Lalli is concerned the rule would bind the judge to maintain the same bail amount, Mr. Arrascada's draft does not allow for this flexibility.
  - Justice Silver questioned if (b)(1), (i) is just keeping 'status quo' until the trial court can hear the case.
  - Mr. Petty replied that yes the idea of (b)(1), (i) is to maintain 'status quo'. If the state would like to change the bail, they can submit a motion.
  - Chief Judge Bell agreed with Mr. Lalli over a gap in the time period between when an initial bail setting and the time where someone would appear in district court. Chief Judge Bell expressed concern if she were to receive a case with a bail amount already set and not have the ability to alter the bail amount. Additionally Chief Judge Bell requested a clearer definition for 'prompt' when referenced in (b)(1).
  - Justice Hardesty reminded the commission that a survey was done with the results that bail amounts are almost never changed after the bail is set. Justice Hardesty questioned for additional clarification on the 'gap'.
  - Chief Judge Bell stated the gap is not in the rule where the bail is set in the justice court, to the bail is set in an adversarial hearing. The 'gap' is where the judge is hearing the return to when the bail is set.
  - Mr. Lalli agreed with Chief Judge Bell and supplied further explanation using Mr. Prengaman's version where the defendant is charged by indictment
    - (i) defines what would happen at the grand jury return
    - (ii) discusses when and where the prompt hearing has to occur.
    - This is important information that Mr. Lalli feels is missing from Mr. Arrascada's draft.
  - Justice Silver commented that her questions during the oral argument for *Valdez-Jimenez*, were focused on the gap. Justice silver experience with the gap of time that elapsed from being booked on the warrant to being seen for the adversarial hearing.

- Justice Hardesty addressed Chief Judge Bell's comment on defining a prompt hearing stating that is Rule 8(h)'s intent. Justice Hardesty then questioned Mr. Petty or Mr. Arrascada how their draft of (b)(1), (i) is different from Mr. Prengaman's draft.
  - Mr. Jackson shared an example where a man was originally charged with open and gross lewdness. Once more information was collected the man was indicted for sexual assault.
    - In Mr. Arrascada's draft the defense would argue it's the same subject matter so the bail needs to remain the same until the case reaches district court.
    - In Mr. Prengaman's draft the bail may be increased by the presiding or chief judge who obtains the true bill.
    - Mr. Jackson closed stating Mr. Prengaman's draft allows more flexibility and takes the Valdez-Jimenez hearing into account.
      - After further clarification from Justice Hardesty, Mr. Jackson proposed '...or subject matter...' be taken out entirely in both drafts.
  - Mr. Prengaman gave three permutations for bail or pre-trial release that come out of an indictment.
    - The defendant who has a case and gets indicted and the bail stays the same, this individual has already had a *Valdez-Jimenez* hearing in Justice court therefore doesn't need another prompt hearing in district court, they just need the arraignment in (2)
    - The defendant that gets additional charges or the same charge with higher bail, this individual deserves a *Valdez-Jimenez* hearing.
    - The defendant that is indicted for the first time with no charges pending in Justice court, this individual needs a prompt hearing.
    - The rule as drafted also provides the presiding judge full discretion to decide the bail.
  - Chief Judge Freeman shared that he has only had to increase bail once after additional details came out after the victim testified. Mr. Prengaman's draft allows for this.
  - Ms. Dickinson questioned if one should automatically assume that the justice court has already had a Valdez-Jimenez hearing and pointed out the rule in (b) at the initial arraignment the court should first determine if the defendant has previously had a Valdez-Jimenez hearing. Additionally Ms. Dickinson asked whether what was done in Justice Court is considered the hearing.
    - Justice Hardesty replied stating he believed Ms. Dickinson was correct and reminded everyone that *Valdez* was an indictment case. It's the responsibility of the judge to find out.
  - Justice Hardesty shared his view that the judge receiving the true bill should be in the position to modify the bail at least until arraignment. Justice Hardesty continued stating he still doesn't completely understand the 'gap' issue as explained by Mr. Lalli.
  - Mr. Lalli offered additional information stating the 'gap' is addressed in Mr. Prengaman's draft, by inference it explains what happens when an indictment is returned vs the initial appearance on the indictment. Mr. Arrascada's draft does not address this issue.
  - Justice Hardesty created a subcommission with Justice Silver serving as chair and requested Mr. Lalli, Mr. Prengaman, Mr. Petty, Ms. Dickinson, and Chief Judge Bell work together to reconcile the gap language. Justice Hardesty offered a starting outline for (b)(1): if a defendant has been charged on an indictment then upon return of the true bill, the district court judge will set a detention status for the defendant. The language to follow is either Mr. Arrascada's draft or Mr. Prengaman's draft or a combination of the two.
- Rule 5: Pleas of Guilty or Nolo Contendere (*pages 24-25*)
- Justice Hardesty questioned the commission if anyone had any objections to the inclusion of the rule as drafted. (*page 25*)
    - Ms. Thomas made several suggestions regarding the language in the draft and ended stating a statute already exists and she doesn't believe an additional rule is necessary.

- Mr. Imlay referenced NRS 174.063 and stated the statute is very detailed and questioned if the rule is needed as well.
- Justice Hardesty agreed and questioned the representatives from the 2<sup>nd</sup> district if they also agreed.
- Mr. Prengaman agreed.
- Justice Hardesty asked the commission if they should abandon rule 5 or rely on the statute with a vote.
  - The commission voted to remove rule 5 and to rely on the statute.
- Rule 6: Release and Detention Pending Judicial Proceedings (*pages 26-31*)
- Rule 8(h): Pretrial Motions (*pages 8-9*)
  - This discussion has been tabled for the next meeting.

#### VI. Additional Rules for Commission Consideration

- Justice Hardesty called for a vote asking if the commission would like to include rules for Jury Commissioner, Grand Jury, and Post-Conviction Writs.
- Grand Jury
  - Ms. Dickinson commented on the need for the rule given problematic case law.
    - Justice Hardesty shared with the commission that he had received a report from Chief Judge Bell that included a revamp to the procedures with Grand Jury selection and that it has been adopted in the 8<sup>th</sup> district.
    - Mr. Lalli confirmed that a record is now kept in regards to jury selection demographics.
  - Justice Hardesty called for a vote on if the commission would like to include a rule for Grand Jury selection.
    - The commission voted not to include a statewide rule for Grand Jury.
- Jury Commissioner
  - Justice Hardesty called for a vote on if the commission would like to include a rule for the Jury Commissioner.
  - During the roll call vote Justice Silver questioned the reason why Justice Stiglich felt a rule was needed.
    - Justice Stiglich stated the courts have a number of cases challenging the venire and questions if a rule should be drafted to clearly define what demographics are being used to ensure proper representation in all districts.
    - Mr. Jackson stated in 2017 the legislature changed the procedure, requiring Jury Commissioners to collect name, occupation, address and race of each trial juror as described in NRS 6.045.
    - Justice Silver requested Ms. Dickinson's input as many of the appeals in the 8<sup>th</sup> involve jury selection issues.
      - Ms. Dickinson expressed the difficulty she has experienced when trying to obtain the information she needs from the Jury Commissioner for the evidentiary hearing.
  - Justice Hardesty requested the vote be continued.
    - The commission was split on if to include a statewide rule for Jury Commissioner.
      - Justice Hardesty stated since the commission is split he will allow people to submit draft rules for the commission to consider in the next commission meeting.
- Post-Conviction Writs
  - Justice Hardesty called for a vote on whether the commission should include a statewide rule for Post-Conviction Writs; the commission voted against inclusion of this rule.

#### VII. Other Items/Discussion

- Rule Approval Process and Next Steps.

#### VIII. Next Meeting

- September 2<sup>nd</sup> at Noon



IX. Adjournment

- The meeting adjourned at 1:50 p.m.

# TAB 2

## Criminal Settlement Conferences in the Rural Judicial Districts

Judges,

I hope all of you are well. We were having a Rules of Criminal Procedure Committee hearing today. Justice Hardesty raised the issue of criminal settlement conferences. He expressed an interest in whether the rural judges have been taking advantage of the rule change. Part of the discussion centered on the efforts that Judge Stockard and I have been engaged in.

As background, in the discussions Judge Stockard and I were having about coronavirus, we were concerned with the delays in the criminal cases. We decided that we could act as the criminal settlement judge for one another. So we began a program for the 10th and 11th Districts for all pending jury trials. For the program, we have been referring cases criminal cases for a settlement conference to one another.

Judge Stockard has conducted several criminal settlement conferences on my cases. I have conducted several criminal settlement conferences for him. Thus far, only one case was not resolved. The unresolved case was not settled because the defense attorney wanted more time to consult his experts. In other words, we have settled all but one of the cases referred to the settlement conference program. In our estimation, it has been highly successful and the rule change has been beneficial to our criminal docket.

Based upon the conversation today, Justice Hardesty would like hear from us (rural judges) if the rule change has helped you manage your criminal caseload and if it has been successful or not.

If you could please Reply to All and we can all learn from each other and share the perspectives with Justices Hardesty and Stiglich on the rule change.

Sincerely

Jim Shirley

Judicial District	Response
Third Judicial District	No criminal settlement conferences held to date. This district has recommenced jury trials; pending trials are settling quickly without intervention.
Sixth Judicial District	Settlement conferences have been set but have not yet occurred.
Seventh Judicial District	No criminal settlement conferences held to date.

# TAB 3

#### **Rule 4 - Defendant Charged by Indictment Section (Version 1)**

At the indictment return hearing, conditions of pretrial detention or release must be considered as follows:

(i) If the indictment addresses the same charges as a criminal complaint pending in a parallel proceeding in justice court, any pretrial detention conditions shall presumptively remain the same as the pretrial detention conditions set in justice court. This presumption is rebuttable and the district court may change the pretrial detention conditions based on a change of circumstances.

(ii) If the indictment contains any additional or different charges from the criminal complaint pending in a parallel proceeding in justice court, and the State seeks to change the pretrial detention conditions set in the parallel proceeding in justice court, then the district court shall issue a summons or issue a warrant. Additionally, the district court shall determine pretrial detention conditions based on the information available to the district court at the time of the indictment return.

(iii) If there is no criminal complaint pending in a parallel proceeding in justice court addressing the same charges as the indictment, then the district court shall issue a summons or issue a warrant. The district court shall also determine pretrial detention conditions based on the information available to the district court at the time of the indictment return.

Following the indictment return hearing, at the initial appearance, the court shall:

(i) Supply the defendant a copy of the indictment unless the charging document has previously been made available to the defendant through e-filing;

(ii) If necessary, determine whether the defendant qualifies for appointed counsel and, if so, appoint counsel to represent the defendant. In such event, newly appointed counsel shall, upon the defendant's request, be given an extension of time of up to 5 days before entry of plea; and,

(iii) Arraign the defendant upon all charges in the indictment;

(iv) If no prior adversarial hearing has been held for the defendant in a parallel proceeding in justice court or if a defendant's bail was increased or the conditions of release were altered at the indictment return hearing, conduct a prompt adversarial hearing to determine whether it is appropriate to adjust any conditions of release or bail; and,

(v) If the defendant enters a plea of not guilty, set the dates for trial, pretrial motions, evidentiary hearings or status conferences.

#### **Rule 4 - Defendant Charged by Indictment Section (Version 2)**

At the indictment return hearing, conditions of pretrial detention or release must be considered as follows:

(i) If the indictment addresses the same charges as a criminal complaint pending in a parallel proceeding in justice court, any pretrial detention conditions shall presumptively remain the same as the pretrial detention conditions set in justice court. ~~This presumption is rebuttable and the district court may change the pretrial detention conditions based on a change of circumstances.~~

(ii) If the indictment contains any additional or different charges from the criminal complaint pending in a parallel proceeding in justice court, and the State seeks to change the pretrial detention conditions set in the parallel proceeding in justice court, then the district court shall issue a summons or issue a warrant. Additionally, the district court shall determine pretrial detention conditions based on the information available to the district court at the time of the indictment return.

(iii) If there is no criminal complaint pending in a parallel proceeding in justice court addressing the same charges as the indictment, then the district court shall issue a summons or issue a warrant. The district court shall also determine pretrial detention conditions based on the information available to the district court at the time of the indictment return.

Following the indictment return hearing, at the initial appearance, the court shall:

(i) Supply the defendant a copy of the indictment unless the charging document has previously been made available to the defendant through e-filing;

(ii) If necessary, determine whether the defendant qualifies for appointed counsel and, if so, appoint counsel to represent the defendant. In such event, newly appointed counsel shall, upon the defendant's request, be given an extension of time of up to 5 days before entry of plea; and,

(iii) Arraign the defendant upon all charges in the indictment;

(iv) If no prior adversarial hearing has been held for the defendant in a parallel proceeding in justice court or if a defendant's bail was increased or the conditions of release were altered at the indictment return hearing, conduct a prompt adversarial hearing to determine whether it is appropriate to adjust any conditions of release or bail; and,

(v) If the defendant enters a plea of not guilty, set the dates for trial, pretrial motions, evidentiary hearings or status conferences.

# TAB 4

## **Rule 16. Sanctions.**

### **Rule 7.60. Sanctions.**

- (a) If without just excuse or because of failure to give reasonable attention to the matter, no appearance is made on behalf of a party on the call of a calendar, at the time set for the hearing of any matter, at a pre-trial conference, or on the date of trial, the court may order any one or more of the following:
  - (1) Payment by the delinquent attorney or party of costs, in such amount as the court may fix, to the clerk or to the adverse party.
  - (2) Payment by the delinquent attorney or party of the reasonable expenses, including attorney's fees, to any aggrieved party.
  - (3) Dismissal of the complaint, cross-claim, counter-claim or motion or the striking of the answer and entry of judgment by default, or the granting of the motion.
  - (4) Any other action it deems appropriate, including, without limitation, imposition of fines.
- (b) The court may, after notice and an opportunity to be heard, impose upon an attorney or a party any and all sanctions which may, under the facts of the case, be reasonable, including the imposition of fines, costs or attorney's fees when an attorney or a party without just cause:
  - (1) Presents to the court a motion or an opposition to a motion which is obviously frivolous, unnecessary or unwarranted.
  - (2) Fails to prepare for a presentation.
  - (3) So multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.
  - (4) Fails or refuses to comply with these rules.
  - (5) Fails or refuses to comply with any order of a judge of the court.

### **2<sup>nd</sup> LR Rule 21. Sanctions for noncompliance.**

If a party or an attorney fails or refuses to comply with these rules, the court may make such orders and impose such sanctions as are just, including, but not limited to the following:

1. Hold the disobedient party or attorney in contempt of court.
2. Continue any hearing until the disobedient party or attorney has complied with the requirements imposed.
3. Require the disobedient party to pay the other party's expenses, including a reasonable attorney's fee, incurred in preparing for and attending such hearing.
4. Enter an order authorized by N.R.C.P. 37.



# TAB 5

## Rule 2. Case assignment.

- (a) **Single-defendant cases.** In a judicial district having two or more district court judges, each criminal action involving a single defendant shall be randomly assigned to a department of the court and shall remain in such department until final disposition of the action, unless:
  - (i) the action is brought against a defendant who is the subject of another pending or reopened action in the court, in which case the action shall be assigned to the department of the most recent other action; or
  - (ii) otherwise ordered by the chief judge consistent with a plan of court-wide case management.
- (b) **Multiple-defendant cases.** In a judicial district having two or more district court judges, each criminal action involving two or more defendants charged together in the same information or indictment shall be randomly assigned to a department of the court and shall remain in such department until final disposition of the action, unless:
  - (i) one of the defendants is the subject of another pending or reopened action in the court, in which case the action shall be assigned to the department of the most recent other action; or
  - (ii) two or more of the defendants are the subjects of other pending or reopened actions in the court, in which case the action shall be assigned to the department of the most recent other action; or
  - (iii) otherwise ordered by the chief judge consistent with a plan of court-wide case management.
- (c) A criminal action involving one or more defendants charged together in the same criminal complaint in the justice court, but not **[bound over to the district court] [held to answer in the district court]** on the same date, shall be assigned to a department pursuant to subsection (a) or subsection (b), as appropriate, based upon the identity of the first defendant or defendants **[bound over to the district court] [held to answer in the district court]**. Any co-defendant or co-defendants charged in the criminal complaint who are **[bound over] [held to answer]** on a later date shall be assigned to the same department unless otherwise ordered by the chief judge consistent with a plan of court-wide case management.
- (d) Unless otherwise ordered by the chief judge, upon the assignment of a criminal action involving two or more defendants to a department of the court in accord with subsection (b) or subsection (c), all other pending actions involving any of the defendants charged in the information or indictment shall be transferred to the same department.
- (e) When a defendant is remanded from a department of the district court to a justice court for preliminary examination or further proceedings relating to a criminal action, any subsequent proceedings upon the same criminal action in the district court shall be assigned to the same department.
- (f) When the trial of a criminal action occurs in a department of the district court other than the department assigned pursuant to subsection (a) or subsection (b), sentencing in the action should occur in the department in which the trial occurred.

**Note: “bound over” is the term used and readily understood by the courts and practitioners. “Held to answer” is the verbiage used in NRS 171.196 and 171.206 to describe the bind over.**

# TAB 6

Rule	Status	Date/Source of Actions	Motions to Approve/Votes	Notes
Rule 2: Case Assignment	Approved	4/22/19 Commission Meeting 6/10/19 Commission Meeting 6/15/2020 Commission Meeting 7/01/2020 Commission Meeting 8/05/2020 Commission Meeting	Motion to approve Yes: 10 No: 3 Abstain/no vote: 1	6/15/2020: Judge Herndon and Judge Jones to review Commission's previous discussion on this rule. 7/01/2020: Commission members invited to submit drafts for review 8/05/2020: Approved (with minor revisions)
Rule 3: Appearance and Withdrawal of Attorney	Approved	9/27/19 Commission Meeting	Motion to approve, general consent vote. Motion passed	Rules 7.40 and 23 approved 9/27/19
Rule 4: Initial Appearance and Arraignment	Ongoing	6/10/19 Commission Meeting 6/15/2020 Commission Meeting 7/01/2020 Commission Meeting 8/05/2020 Commission Meeting		8/05/2020: Rule divided into 3 parts; part one (as drafted by Mr. Prengaman) was approved without inclusion of Mr. Arrascada's (a)(1)(v) and (a)(2).
Rule 4.1: Setting of Cases	Removed	6/10/19 Commission Meeting 5/27/2020 Commission Meeting		5/28/2020: this rule will be removed from further agendas as it has been addressed in Rule 8 (request for submission sections)
Rule 5: Pleas of Guilty or Nolo Contendere	Removed	8/05/2020 Commission Meeting	Motion to rely on statute or draft new rule Statute: 11 New rule: 0 Abstain/no vote: 3	8/05/2020: Commission voted to rely on statute rather than develop new rule
Rule 6: Release and Detention Pending Judicial Proceedings	Ongoing			
Rule 7: Discovery/ Discovery Motions	Approved	6/10/19 Commission Meeting	Motion to approve, general consent vote. Motion passed.	Language added to 2 <sup>nd</sup> CR Rule 6
Rule 8: Pretrial Motions	Approved	10/29/19 Commission Meeting 1/17/2020 Commission Meeting 2/28/2020 Commission Meeting 4/27/2020 Commission Meeting 5/15/2020 Commission Meeting 5/27/2020 Commission Meeting 6/15/2020 Commission Meeting 7/01/2020 Commission Meeting	Motion to approve sections a-g. Yes: 13 No: 0 Abstain/no vote:1	Tentatively approved 2/28 pending changes; brought back for review at 4/27 meeting and 5/15 meeting. 5/15/20: Additional changes will be reviewed at 5/27/20 meeting. 5/27/20: sections a-g were unanimously approved; section h contested with 2 versions proposed. Commission will accept/review any additional drafts for this section at next meeting; otherwise both versions will be submitted to the Court for review.

				Per Justice Hardesty: Section 8(h) will be removed from Rule 8; pretrial detention will be address in Rule 6.
Rule 9: Pretrial Writs of Habeus Corpus	Approved	10/29/19 Commission Meeting	Motion to approve pending revisions, general consent vote.	10/29/19: Approved pending revisions as discussed.
Rule 10: Stay Orders	Approved	10/29/19 Commission Meeting	Motion to approve, general consent vote. Motion passed; 1 member opposed.	
Rule 11 and 12:	Approved	10/29/19 Commission Meeting	Motion to approve, general consent vote. Motion passed.	10/29/19: Approved pending slight revision
Rule 14: Sentencing	Approved	4/27/2020 Commission Meeting 5/27/2020 Commission Meeting 6/15/2020 Commission Meeting	Motion to approve Yes: 10 No: 3 Abstain/no vote: 1	Members to compile subject matter list to base draft on 5/27/20: Section 3(b) is only contested section 6/15/2020: Commission approved
Rule 15: Continuances	Approved	4/27/2020 Commission Meeting 5/27/2020 Commission Meeting 6/15/2020 Commission Meeting	Motion to approve Yes: 13 No: 0 Abstain/no vote: 1	Members to compile subject matter list to base draft on 5/27/20: Support for Mr. Prengaman's version 6/15/2020: Commission approved
Rule 16: Sanctions	Ongoing			
Rule 17: Voir Dire	Approved	1/17/2020 Commission Meeting 2/28/2020 Commission Meeting 4/27/2020 Commission Meeting 5/15/2020 Commission Meeting 5/27/2020 Commission Meeting	Motion to approve Yes: 8 No: 0 Abstain/no vote: 6	Tentatively approved 4/27; subcommittee will make final changes and bring back for final review at 5/15 meeting 5/15/20: Additional changes made; will circulate for an email vote/approval Approved via email vote; approval announced at 5/27/20 meeting
Rule 18: Court Interpreters	Approved	10/29/19 Commission Meeting	Motion to approve, general consent vote. Motion passed.	10/29/19: Approved pending slight revision
Rule 19: Appeals	Approved	10/29/19 Commission Meeting	Motion to approve Yes: 8 No: 1 Abstain/no vote: 5	Email vote following 10/29/19 meeting to approve changes as discussed
Rule 20(a)	Approved	8/27/19 Commission Meeting	Motion to approve Yes: 11	Replaced by 2 <sup>nd</sup> LR Rule 3(7) proposed by Mr. Arrascada

			No: 0 Abstain/no vote: 3	
Rule 20(e)	Approved	9/27/19 Commission Meeting	Motion to approve, general consent vote. Motion passed.	9/27/2019: Approved draft as presented by Mr. Grimes
SCR 250(4)(c)	Adopted	6/07/19 ADKT 0491 – 1 <sup>st</sup> report		
SCR 252	Adopted	6/07/19 ADKT 0491 -1 <sup>st</sup> report 6/15/2020 Commission Meeting		6/15/2020: Amendment approved (as presented by Mr. Lalli)
Post-Convictions	Removed	1/29/2020: Work Group Conference Call 2/28/2020 Commission Meeting 8/05/2020 Commission Meeting	Vote on whether to include this rule Yes: 3 No: 8 Abstain/no vote: 3	Tabled for further discussion at 3/27/20 meeting 8/05/20: Commission voted not to include this rule
Jury Commissioner	Ongoing	8/05/2020 Commission Meeting		8/05/2020: Commission was split on whether to include a rule on this; Justice Hardesty decided to allow submissions for consideration.