

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
AMENDMENT OF THE RULES OF
PRACTICE FOR THE EIGHTH
JUDICIAL DISTRICT COURT

ADKT 0591

FILED

APR 11 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

*ORDER AMENDING THE RULES OF PRACTICE FOR
THE EIGHTH JUDICIAL DISTRICT COURT*


WHEREAS, on January 10, 2022, Linda Bell, Chief Judge, and Joseph Hardy, Jr., Judge, Eighth Judicial District, filed a petition in this court seeking to amend the Rules of Practice for the Eighth Judicial District Court. Accordingly,

IT IS HEREBY ORDERED that the proposed amendments to the Rules of Practice for the Eighth Judicial District Court shall be adopted and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the amendments to the Rules of Practice for the Eighth Judicial District Court shall be effective 60 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be


conclusive evidence of the adoption and publication of the foregoing rule amendments.

Dated this 11TH day of April, 2022


Parraguirre


Hardesty, J.


Stiglich, J.


Cadish, J.


Silver, J.


Pickering, J.


Herndon, J.

cc: Hon. Linda Bell, Chief District Judge
Hon. Joseph Hardy, Jr., District Judge
All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Elko County Bar Association
Douglas County Bar Association
Ann Morgan, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Administrative Office of the Courts

EXHIBIT A

AMENDMENT TO PART III AND PART VII OF THE RULES OF PRACTICE FOR THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

PART III. CRIMINAL PRACTICE

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Rule 3.10. Consolidation and reassignment.

(a) When an indictment or information is filed against a defendant who has other criminal cases pending in the court, the new case may be assigned directly to the department wherein a case against that defendant is already pending.

(b) Unless objected to by one of the judges concerned, criminal cases, writs or motions may be consolidated or reassigned to any criminal department for trial, settlement or other resolution.

(c) In the event of negotiations being reached as to multiple cases having the same defendant, defense counsel and the prosecution may stipulate to having all of the involved cases assigned to the department having the oldest case with the lowest case number, and the court clerk shall then so reassign the involved cases. If the negotiations later break down, then the court clerk will again reassign the involved cases back to their respective department(s) of origin. The objection provision of subparagraph (b) [~~hereinabove~~] above does not pertain to this present subparagraph (c).

Rule 3.20. Motions.

~~[(a) Unless otherwise provided by law or by these rules, all motions must be served and filed not less than 15 days before the date~~

~~set for trial. The court will only consider late motions based upon an affidavit demonstrating good cause and it may decline to consider any motion filed in violation of this rule.~~

~~(b) Except as provided in Rules 3.24 and 3.28, each motion must contain a notice of hearing setting the matter for hearing not less than 10 days from the date the motion is served and filed. A party filing a motion must also serve and file with it a memorandum of points and authorities in support of each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not meritorious, as cause for its denial or as a waiver of all grounds not so supported.~~

~~(c) Within 7 days after the service of the motion, the opposing party must serve and file written opposition thereto. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion is meritorious and a consent to granting of the same.~~

~~(d) Unless otherwise allowed by the court, all motions to increase or decrease bail must be in writing, supported by an affidavit of the movant or the movant's attorney, and contain a notice of hearing setting the matter for hearing not less than 2 full judicial days from the date the motion is served and filed. The opponent to the motion may respond orally in open court.~~

~~(e)] Either the prosecutor or the defendant may place a matter on calendar by oral request to the clerk of the court made not later than 11:00 a.m. on the day preceding the date of the hearing. Such requests are to be used only to bring to the attention of the court a matter of an emergency nature or to place a case on calendar when the matter is to be resolved, such as by entry~~

of a guilty plea or for dismissal. An oral request to the clerk to place a case on the calendar for the hearing of any other matter is improper.

Rule 3.24. [~~Discovery motions.~~

~~(a) Any defendant who wishes to make a request for discovery from the prosecuting attorney pursuant to the provisions of NRS 174.235, and any prosecuting attorney who wishes to make a request for discovery from a defendant pursuant to the provisions of NRS 174.245, may make such request orally, on the record, at the time of initial arraignment. Such requests shall trigger the obligations to comply as set forth in NRS 174.234 through 174.295. The clerk shall memorialize said requests in the court minutes of the initial arraignment.~~

~~(b) The provisions of this rule are not intended to affect any obligation placed upon the prosecuting attorney by the Constitution of the State of Nevada or the Constitution of the United States to disclose exculpatory evidence to the defendant.] Repealed.~~

~~Rule 3.28. [~~Motions in limine. All motions in limine to exclude or admit evidence must be in writing and noticed for hearing not later than calendar call, or if no calendar call was set by the court, no later than 7 days before trial. The court may refuse to consider any oral motion in limine and any motion in limine which was not timely filed.]~~~~
Repealed.

~~Rule 3.40. [Writs of habeas corpus.~~

~~(a) Each petition for a writ of habeas corpus based on alleged want of probable cause or otherwise challenging the court's jurisdiction to proceed to the trial of a criminal charge must contain a notice of hearing setting the matter for hearing 14 days from the date the petition is filed and served. In the event the judge to whom the case is assigned is not scheduled to hear motions on the 14th day following the service and filing of the petition, the notice must designate the next day when the judge has scheduled the hearing of motions.~~

~~(b) Any other petition for writ of habeas corpus, including those alleging a delay in any of the proceedings before the magistrate or a denial of the petitioner's right to a speedy trial, must contain a notice of hearing setting the matter for hearing not less than 1 full judicial day from the date the writ is filed and served.~~

~~(c) All points and authorities in support of the petition for writ of habeas corpus must be served and filed at the time of the filing of the petition. The prosecutor must serve and file a return and a response to the petitioner's points and authorities within 10 days from the receipt of a petition for a writ of habeas corpus based on alleged want of probable cause or otherwise challenging the court's jurisdiction to proceed to the trial of a criminal charge. The prosecutor may serve and file a return and a response to the petitioner's points and authorities in open court at the time noticed for the hearing on any other writ of habeas corpus.~~

~~(d) The court reporter who takes down all the testimony and proceedings of the preliminary hearing must, within 15 days after the~~

~~defendant has been held to answer in the district court, complete the certification and filing of the preliminary hearing transcript.~~

~~(e) Ex parte applications for extensions of the 21-day period of limitation for filing writs of habeas corpus will only be entertained in the event that the transcript of the preliminary hearing or of the proceedings before the grand jury is not available within 14 days after the defendant's initial appearance. Such ex parte applications must be accompanied by an affidavit of the defendant's attorney that counsel has examined the file in the Office of the Clerk of the Court and that the transcript of the preliminary hearing or of the proceedings before the grand jury has not been filed within the 14-day period of limitation. Applications for extensions of time to file writs of habeas corpus must be for not more than 14 days. Further extensions of time will be granted only in extraordinary cases.] Repealed.~~

~~Rule 3.44. [Stay orders. An ex parte application for a stay of proceedings before a magistrate may only be made with the written consent of the State of Nevada. Any other application for a stay of proceedings before a magistrate may only be made after reasonable oral notice to the State.] Repealed.~~

~~Rule 3.50. [Extending time.~~

~~(a) When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the~~

~~period originally prescribed or as extended by a previous order; but it may not extend the time for taking any action under Rule 3.40, except to the extent and under the conditions stated therein.~~

~~(b) Ex parte motions to extend time may not be granted except upon an affidavit or certificate of counsel demonstrating circumstances claimed to constitute good cause and justify enlargement of time.] Repealed.~~

~~Rule 3.60. [Shortening time. Ex parte motions to shorten time may not be granted except upon an affidavit or certificate of counsel describing the circumstances claimed to constitute good cause and justify shortening of time. If a motion to shorten time is granted, it must be served upon all parties promptly. In no event may the notice of the hearing of a motion be shortened to less than 1 full judicial day.] Repealed.~~

~~Rule 3.70. Papers which may not be filed. Except as may be required by the provisions of [~~NRS 34.730~~] NRS 34.720 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to that attorney for such consideration as counsel deems appropriate. This rule does not apply to motions [~~applications~~] made pursuant to [~~Rule 7.40(b)(2)(ii)~~] N.R.Cr.P. 3(2)(B)(ii).~~

~~Rule 3.80. [Release from custody; bail reduction.~~

~~(a) When an individual is arrested on probable cause or on an arrest warrant, any district judge may, on an emergency basis only, unilaterally, without contact with a prosecutor, grant a release upon the individual's own recognizance pursuant to NRS 178.4851 and 178.4853 or reduce the amount of bail below the standard bail, provided that the arrest is for a misdemeanor, gross misdemeanor, non-violent felony, or some combination thereof. Before the court may grant an own recognizance release or bail reduction, the court must be satisfied that the individual arrested will likely appear in court at the next scheduled appearance date and does not present a threat in the interim if released. Once the individual arrested makes an initial court appearance, all issues regarding custodial status shall be addressed by the judge assigned the case or any other judge specifically designated or authorized by the assigned judge. A judge designated or authorized by the assigned judge, or by court rule, may release an individual from a bench warrant for a misdemeanor, gross misdemeanor or non-violent felony, or some combination thereof.~~

~~(b) When an individual is arrested on probable cause for a violent felony offense or on a bench warrant for a violent felony offense issued by the district court, justice court, or municipal court, a district judge shall not grant an own recognizance release or reduce the amount of bail established unless the judge provides an opportunity pursuant to NRS 178.486 for the prosecution to take a position thereon by telephone or in person, either in chambers or in open court. A district court judge may unilaterally increase bail for an individual arrested for a violent felony if the court is satisfied that the individual arrested will not likely appear in court at the next~~

~~scheduled appearance date or presents a threat to the community in the interim if released.~~

~~(e) Between the time of an individual's arrest on probable cause, a bench warrant, or an arrest warrant and his or her subsequent court appearance, ex parte contact between the court and any person interested in the litigation regarding the individual's custodial status shall be allowed where the purpose is administrative or an emergency and the court reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication, and where the court makes provision to promptly notify all other parties of the substance of the ex parte communication and gives the parties an opportunity to respond.] Repealed.~~

PART VII. GENERAL PROVISIONS

Rule 7.01. Scope of rules. Unless otherwise stated, the rules in Part VII are applicable to all actions and proceedings commenced in the Eighth Judicial District Court. To the extent any rule in Part VII conflicts with the Nevada Rules of Criminal Practice, the Nevada Rules of Criminal Practice control.

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Rule 7.40. Appearances; substitutions; withdrawal or change of attorney.

(a) When a party has appeared by counsel, the party cannot thereafter appear on the party's own behalf in the case without the consent of the court.

Counsel who has appeared for any party must represent that party in the case and shall be recognized by the court and by all parties as having control of the case. The court in its discretion may hear a party in open court although the party is represented by counsel.

(b) Counsel in any case may be changed only:

(1) When a new attorney is to be substituted in place of the attorney withdrawing, by the written consent of both attorneys and the client, which must be filed with the court and served upon all parties or their attorneys who have appeared in the action, or

(2) When no attorney has been retained to replace the attorney withdrawing, by order of the court, granted upon written motion, and

[(i)] (A) If the application is made by the attorney, the attorney must include in an affidavit the address, or last known address, at which the client may be served with notice of further proceedings taken in the case in the event the application for withdrawal is granted, and the telephone number, or last known telephone number, at which the client may be reached and the attorney must serve a copy of the application upon the client and all other parties to the action or their attorneys, or

[(ii)] (B) If the application is made by the client, the client must state in the application the address at which the client may be served with notice of all further proceedings in the case in the event the application is granted, and the telephone number, or last known telephone number, at which the client may be reached and must serve a copy of the application upon the client's attorney and all other parties to the action or their attorneys.

(c) No application for withdrawal or substitution may be granted if a delay of the trial or of the hearing of any other matter in the case would result.

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