

<i>For Use In Marshall County, Alabama ONLY</i>	<h1 style="margin: 0;">IN THE CIRCUIT COURT OF MARSHALL COUNTY, ALABAMA</h1>	Case Number
State of Alabama vs. _____, Defendant		

PLEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT

COMES NOW, the defendant in the above styled matter, and to the offense charged enters a plea of:

- Not guilty**
- Not guilty by reason of mental disease or defect**
- Not guilty and Not guilty by reason of mental disease or defect**

Defendant acknowledges receipt of the copy of the charge against him/her and further waives the right to have an arraignment at which the defendant is present in person, or at which the defendant is represented by an attorney. But the defendant specifically and expressly reserves the right upon the filing hereof to hereafter, but before the trial or before such date as may be set by the court, to interpose any defenses, objections, or motions which the defendant had the right as a matter of law or rule to interpose in this cause, prior to the filing hereof.

Date

Defendant

Date

Attorney for Defendant

This is to certify that I am the attorney for the defendant in this matter, and that I have fully explained this form and all matters set forth herein, and pertaining hereto, to the defendant. I further state to the court that I have explained to the defendant his right to be arraigned in person and his right to have me represent him at arraignment. I further certify to the court that my client hereby knowingly, voluntarily, and intelligently waives these rights after a full and complete explanation of each and every one of them to him/her by me. BOTH MYSELF AND THE DEFENDANT UNDERSTAND THAT I AM RESPONSIBLE FOR ASCERTAINING WHAT DATE, IF ANY, HAS BEEN SET BY THE COURT FOR THE MAKING OR FILING OF ANY DEFENSES, OBJECTIONS, OR MOTIONS. I FURTHER UNDERSTAND THAT I AM RESPONSIBLE FOR NOTIFYING MY CLIENT OF THE DATE HIS/HER CASE IS SET FOR TRIAL, AND THAT I HAVE ADVISED AND INFORMED HIM/HER THAT IN THE EVENT HE/SHE FAILS TO APPEAR ON THE DATE HIS/HER CASE IS SET FOR TRIAL, ALL APPROPRIATE LEGAL ACTION WILL BE TAKEN BY THE COURT AGAINST THE DEFENDANT AND HIS/HER BOND. I further certify to the court that I have advised my client that he/she is responsible for obtaining the date his/her case is set for trial in this matter and that in the event he/she fails to appear on the date his/her case is set for trial all appropriate legal action will be taken by the court against the defendant and his/her bond, and I hereby certify that the defendant knows that he/she is personally responsible for obtaining the date his/her case is set for trial and for being present in court on that date.

Date

Signature of Defendant's Attorney

I certify that I have served a copy of the foregoing plea and waiver of arraignment on the prosecutor by mailing/ delivering a copy of the same to him/her on this ____ day of _____, 20__.

Printed name of Attorney

Attorney Code

Address of Attorney

This is to certify that my attorney has explained each and every matter and right set forth in this form and I have completely and fully read and do understand each and every matter set forth in this form. I further state to the court that I do not wish to be personally present at an arraignment in this case and that I do not want to have an attorney represent me at an arraignment and WITH FULL KNOWLEDGE OF EACH OF THESE RIGHTS, I HEREBY EXPRESSLY WAIVE SUCH RIGHTS. I further state to the court that I have been informed of the charge against me and have received a copy of the charge.

Date

Defendant

ORDER AT ARRAIGNMENT

The Defendant having been arraigned or having waived arraignment and having plead not guilty, the Court makes the following orders:

1. The trial date will be set under the court's standard order setting the oldest cases. It is the defendant's duty to check on trial date settings.
2. The Defendant is allowed 14 days to file special pleas or motions.
3. If discovery other than the standard order already issued by the Court is desired by either party, it must be completed at least seven days prior to the trial date.
4. At the request of the Defendant, the District Attorney, the Defendant and his attorney shall meet and confer in the District Attorney's Office, the lock-up, or some other suitable place at least thirty (30) days before trial. At this conference, the District Attorney will tell the Defendant and his attorney what he expects the evidence will be at trial. If the District Attorney feels that plea bargaining is appropriate, he will make an offer of recommendation. The Defendant will have through Friday before the Monday the case is first set for trial to accept the recommendation and to plead or to file a written notice of intent to plead guilty.

STANDARD DISCOVERY ORDER

It is hereby **ORDERED**:

1. The District Attorney Shall produce or make available for copy or inspection to the Defendant's attorney at arraignment of within twenty-one days thereafter, the following:
 - A. A copy of the indictment against the Defendant.
 - B. Any written or recorded statement made by the Defendant to any law enforcement officer, official, or employee which are within the possession, custody, or control of the state, the existence of which is known to the prosecutor.
 - A. The substance of any oral statements made by the Defendant, before or after arrest, to any law enforcement officer, official, or employee which the state intends to offer in evidence at trial.

- B. Any written or recorded statements made by a co-defendant or accomplice to any law enforcement officer, official, or employee, which are within the possession, custody, or control of the state, the existence of which is known to the prosecutor and which the state intends to offer in evidence at the trial.
- C. The substance of any oral statements made by any co-defendant or accomplice, before or after arrest, to any law enforcement officer, official, or employee which the state intends to offer in evidence at the trial.
- D. Any evidence tending to exculpate the guilt of the defendant.
- E. The results of any physical or mental examinations or any scientific or expert tests, experiments, or examination made in connection with case or to be used by the prosecution at trial.
- F. All physical evidence or documentary evidence which the prosecution will offer into evidence in this case in chief, including any search warrant and search affidavit upon which the prosecution will rely in its case in chief.
- G. All physical evidence or documentary evidence seized from the defendant by law enforcement officers, whether or not the same will be offered into evidence at trial.
- H. The District Attorney is under an obligation to disclose to defense Counsel any evidence subject to this Order which he subsequently discovers to exist, and to do so within a reasonable time after its existence is discovered.
- I. **In virtually all sex crimes involving children there are Department of Human Resources records discoverable upon the defendant moving for an order to disclose said records, the same applies for Child Advocacy Center records. It is incumbent upon the defense counsel to request these records early in the pretrial proceedings in order to avoid a delay in the pre-trial conference or trial.**
- J. Any disagreements with the parties concerning the scope, identity or existence of discoverable matter are to be submitted to the Court for resolution upon written motion of either party a reasonable time before trial. Any party who does not submit any unresolved discovery issue to the Court will be precluded from raising the same at trial. If the Court finds that either party has failed to use good faith in complying with this Order, the Court may, in the case of the State, bar the State from using at trial any non-disclosed matter, and the Court may, in the case of the Defendant, hold any objections to the State's use of said matter at trial, based upon prior non-disclosure, to be waived.

For the purpose of the Order, "Law Enforcement Officer" shall have the same meaning as state in ARCrP, Rule 1.4 (P). "Official or Employee" shall mean any employee or agent of the State of Alabama or any political subdivision thereof who is involved the investigation to include Coroner, Emergency Personnel, i.e., Paramedics, Ambulance Drivers, Firemen and Forensic Lab Personnel.

PRE-TRIALS

- 1. This docket shall be made up of 100 cases. The docket shall be made up of all jail cases indicted that have not previously had a pre-trial conference. The balance of the cases shall be the oldest felony cases that have not previously had a pre-trial conference.
- 2. The pre-trial docket will be sent to the Clerk by Judge Jolley's Judicial Assistant 30 days in advance of the docket date.
- 3. The District Attorney must make the best offer to settle the cases no later than 14 days prior to the pre-trial conference. Defense counsel will have sufficient time to discuss offers prior to the date set for the pre-trial conference. Defense counsel shall report at docket call that the case is (a) settled; (b) offer has been rejected; or (c) provide good cause to the Court for leaving the offer open. No case will be left open or continued and reset on ANY different docket by agreement of the parties without consent of the Judge managing the pre-trial docket.
- 4. **ALL** defendants are to appear in person for the pre-trial docket or an alias and forfeiture will be immediately issued.

TRIALS

- 1. The trial docket shall consist of 100 felony cases (these will NOT be the same cases that are on the pre-trial dockets). The cases shall consist of (1) the oldest "jail" cases where the inmate has had a pre-trial conference and either rejected the offer or the offer remained open; and (2) all cases where a pre-trial offer has been rejected or held open until trial to accept or decline the pre-trial offer.
- 2. The trial docket shall also include 25 misdemeanor cases comprised of the oldest misdemeanor cases.
- 3. When a case is announced "ready" at docket call the case will not be continued due to the unavailability of witnesses.

GENERAL PROCEDURES:

- 1. **ALIAS WARRANTS:** NO alias warrants will be recalled or set aside where the defendant has moved and failed to provide a correct address to the Clerk. Also, no alias warrants will be set aside unless the defendant, in person, appears before the Judge who has issued the alias and the Judge finds that there is just cause to set aside the warrant.
- 2. **ADD ON CASES TO DOCKETS:** It may be necessary to add a case to a docket after the same is published for several reasons. However, no case will be added to any docket without prior authorization from the Judge managing said docket.
- 3. **TRANSPORT ORDERS:** If you know your client is in prison or jail in another county, please contact the Judge's office at least FOURTEEN days prior to the date the case is set to allow sufficient time to prepare the transport order and allow the Sheriffs Department sufficient time to transport the defendant.

NOTICE UNDER VICTIM COMPENSATION ACT

An additional penalty must imposed by the court on any person convicted or pleading guilty to a felony involving criminally injurious conduct as this term is defined in Section 15-23-3(2) of the Code. This penalty is referred to in Section 15-23-17(b) as a "victim compensation assessment" and shall be imposed "in addition to any other costs, penalties or fines" in an amount not less than \$50.00 nor more than \$10,000 for each such felony conviction.

NOTICE UNDER DEMAND REDUCTION ASSESSMENT ACT

(Act # 90-655)

If you are convicted of a violation -of either Section 13A-12-202, 203, 204, 211, 212, 213, 215, or 231 you will be assessed an additional penalty of \$ 1,000.00 for the first offense or \$2,000.00 for second and subsequent offense if the violation occurred on or after April 24, 1990. The court may suspend collection of the assessment if you agree to enter a court approved rehabilitation program and if you agree to pay all or some of the costs of said program. If you fail to successfully complete the program then the entire assessment is due. You may apply for a reduction of the assessment in the amount actually paid by you for your participation in the program after its successful completion. No special provisions are made in the Act for indigent defendants.

DONE this _____ day of _____, 20_____.

TIM JOLLEY
CIRCUIT JUDGE