

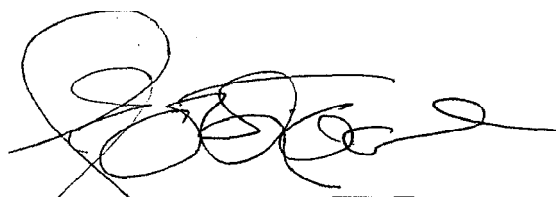
The Supreme Court of South Carolina

ORDER

The Chief Judge for Administrative Purposes for the Seventh Judicial Circuit (Criminal) has submitted for approval the attached administrative order establishing certain rules for the processing of criminal cases in Spartanburg County.

Pursuant to S.C. Const. Art. V, § 4, the administrative order is hereby approved for use in Spartanburg County.

IT IS SO ORDERED.



Jean Hofer Toal
Chief Justice

October 29)2004
Columbia, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
))
COUNTY OF SPARTANBURG))

The State of South Carolina) ADMINISTRATIVE ORDER

Pursuant to the authority vested in the Court by the attached Administrative Order (Attachment "A") signed by the Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is adopted by this Court for Spartanburg County.

This Court orders that all General Sessions cases in which an arrest is made after December 31, 2004 will be processed through the Court under the principles set forth in this order. In accordance with the requirements of this system the following rules are adopted.

The Court directs that in each General Sessions case arising before the various Magistrates and Municipal Courts of the county, the following procedure is to be followed:

A. Bond Hearing

1. Magistrates and Municipal Judges are required to transmit warrants to the Spartanburg County Clerk of Court within fifteen (15) days as required by Rule 3 (a) of the South Carolina Rules of Criminal Procedure.
2. All defendants will be, screened by the Magistrate at their bond hearing to determine if they qualify for appointment of counsel. The screening will be conducted by the on-duty magistrate for all defendants, including those charged by other jurisdictions.
3. The defendant will be served with a Notice of Initial Appearance at his/her bond hearing. The date of the Initial Appearance will be assigned in accordance with the schedule prepared and distributed by the Solicitor's Office. The defendant's attendance at the initial appearance will be made a condition of that defendant's bond by noting this under Section III of a Personal Recognizance Bond Form or Section D of a Surety Bond Form. At the time that the initial appearance is set, the Judge setting the defendant's bond will inform the defendant, orally and in writing, of his/her right to a Preliminary Hearing. Dates for any Preliminary Hearings will be scheduled at the defendant's initial appearance.



B. Initial Appearance

1. The initial appearance will be held at the Spartanburg County Judicial Center. Roll call will be conducted as necessary to ensure attendance. The Clerk of Court is authorized to issue a bench warrant for any defendant who fails to appear and has not been excused by the Solicitor's Office or the Administrative Judge.
2. There will be no continuances of the Initial Appearance.
3. A preliminary hearing, if desired, must be requested in writing on or before the Initial Appearance date.
4. The following issues will be addressed at the Initial Appearance:
 - a) If a defendant qualifies for Court appointed counsel and has not retained private counsel by his/her initial appearance, the Public Defender will continue to represent the defendant.
 - b) If a defendant qualifies for a Public Defender but has retained private counsel prior to the initial appearance date, that attorney must -file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor's Office. The Public Defender will be relieved of representation at that time.
 - c) If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed with the Clerk of Court and served on the Solicitor's Office.
 - d) Unrepresented defendants may apply for a Public Defender at the Initial Appearance. The Clerk of Court will take applications and if approved, the Public Defender will be assigned that day.
 - e) Defendants who remain unrepresented at the Initial Appearance must appear on their Second Appearance Returnable date and remain in court throughout that term until excused by the Court. These defendants must appear for each successive term of court as required by their bond until their case is disposed.

A handwritten signature in black ink, appearing to be the initials 'CA' with a stylized flourish.

- f) Any mental health issues.
 - g) Any issues related to the analysis of drugs or other types of evidence.
 - h) Any other issue that may affect the timing of the disposition of the criminal case including issues related to conflicts of representation.
5. In all cases where the defendant is represented by the Public Defender, the Public Defender will assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date. The Clerk of Court will, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant of the identity of his/her attorney. The newly appointed counsel will also be notified on that date and a preliminary hearing will automatically scheduled for the defendant.
 6. In all cases where it is feasible to do so, the defendant and the State will enter into negotiations concerning pleas at the Initial Appearance. All offers tendered at the Initial Appearance must be accepted or rejected by the Thursday prior to that defendant's Second Appearance. If no plea offer can be made at the initial appearance, it will be tendered by the Thursday prior to the defendant's Second Appearance.
 7. By the Initial Appearance, the Solicitor will provide discovery in all cases in which the appropriate motions have been filed with the Clerk of Court and served on the Solicitor's Office.
 8. All law enforcement agencies are required to forward all existing case reports, investigative reports, and incident reports as well as other discovery to the Solicitor's Office no later than fifteen days prior to the initial appearance date.
 9. At the Initial Appearance the case will be assigned to a 180 day track. Murder cases, Criminal Sexual Conduct cases, and Criminal Sexual Conduct with Minor cases will not fall within the guidelines of this order except that they should be resolved within one year absent court approved deviation. In addition, the Chief Administrative Judge must approve any deviation from the 180 day track for other cases.
 10. At the 2nd Appearance the court will inquire whether a matter is for plea or for trial. If the matter is a plea, the court will assign a date and time for the plea hearing to be held. All sentencing

sheets and other paperwork must be completed by the parties prior to the day the matter is set for a plea hearing.

11. If the plea negotiations are unsuccessful at the Second Appearance the case will be scheduled for trial before one of the presiding General Sessions judges. Except for good cause shown to the Chief Administrative Judge, the Chief Administrative Judge must hear any plea taken after the case is scheduled for trial.
12. Cases may be resolved at any time prior to the specified guidelines.

C. Preliminary Hearing

1. Preliminary hearings will be held at the appropriate Court issuing the charge against the defendant.
2. The Solicitor's Office will represent the State at all preliminary hearings.
3. Continuances of preliminary hearings may be granted only in extreme circumstances.
4. The defendant or his/her attorney must be present to be given a preliminary hearing. If a hearing has been requested in a case that involves an individual affiant, the failure of that affiant to appear and give testimony will result in the dismissal of the warrant if the defendant and/or his lawyer appear and make the appropriate motion,

D. General Sessions Court Practice

1. The Solicitor's Office will, on the 1st and 15th' of each month, provide the Chief Administrative Judge a list of all pending cases that are within 30 days of their track deadlines.
2. Presiding Judges will be available from 9:00-9:30AM on Tuesday through Friday of each General Sessions Court terms to hold case status conferences with attorneys for the State and the defense. Either party may request conferences.



3. At least seven days before each term of court, the Solicitor will prepare and publish a docket of all cases that are subject to call during that court term. Making the docket available in the Solicitor's Office shall effect publication. The Solicitor's Office will also distribute the docket to those attorneys listed upon it by either Fax, US Mail or by hand delivery, It is the responsibility of all attorneys who have clients on this docket to notify their clients that their case is scheduled for disposition.


AND IT IS SO ORDERED.



Chief Administrative Judge, General Sessions
Seventh Judicial Circuit

This 29th day of October, 2004.
Spartanburg, South Carolina

I CONSENT:



Harold W. Gowdy, III
Solicitor - 7th Judicial Circuit



Mike Bartosh
Public Defender - Spartanburg County