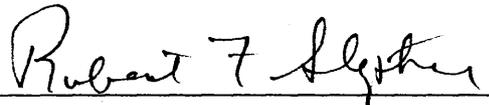


Supreme Court of Kentucky

IN RE: ORDER APPROVING LOCAL RULES, 36TH JUDICIAL CIRCUIT,
KNOTT AND MAGOFFIN COUNTIES

The Local Rules of the 36th Judicial Circuit, Knott and
Magoffin Counties, are hereby approved by the undersigned.

ENTERED May 8, 1996.

A handwritten signature in cursive script, reading "Robert F. Slayton", is written over a horizontal line.

Chief Justice

may request oral argument by motion. Counsel shall then issue a Notice of Submission of Case for Final Adjudication at which time the case shall stand submitted.

(B) Failure to file memorandum of authorities by either party may be grounds for granting or denying the motion.

1.03 TIME OF FILING

Except in extraordinary cases upon good cause shown, only those motions which have been filed with the Knott or Magoffin Circuit Clerk and opposing counsel on or before the close of business hours on Monday preceding the Thursday Rule Day shall be heard. All motions filed thereafter shall be passed to the next following scheduled Rule Day of the Court. Any response to properly filed motions must be filed with the Knott or Magoffin Circuit Clerk and delivered to opposing counsel at least twenty-four (24) hours before the time said motion is scheduled for a hearing.

1.04 PLACE OF HEARINGS

All motions and other hearings in the cases of this Court shall be heard or held in the Circuit Courtroom, located in the county in which the case is pending, except in cases requiring immediate, extraordinary relief or in other cases for good cause demonstrated through appropriate affidavits, hearings may either be held at Hindman, Kentucky; Salyersville, Kentucky, or such other places as the Court may direct.

RULE 2:

TRIAL PRACTICE

2.01 TRIALS/PRE-TRIALS

A party desiring assignment of a civil trial date shall file a motion for pre-trial conference or trial date. All attorneys shall comply with the Court's standing order assigning for pre-trial conference. All pre-trial conferences shall be scheduled by the Court.

2.02 DEPOSITIONS

Ordinarily, notice mailed fourteen (14) days in advance of a deposition date shall be deemed sufficient notice while notice mailed to opposing counsel less than fourteen (14) days prior to the deposition date shall be insufficient notice. Counsel are encouraged to contact opposing counsel when scheduling depositions to resolve conflicts and to avoid the necessity of rescheduling.

2.03 REPORT OF PROCEEDINGS

All Rule Days, hearings and trials shall be reported by the Official Court Reporter, unless otherwise ordered by the Court. The Official Court Reporter shall be present on all Rule Days, hearings dates and trial dates.

2.04 EQUITY CASES AND OTHER NON-JURY CASES

All equity matters and other cases wherein a jury trial is either not required or requested, other than matters of child custody, adoption and termination of parental rights, may be tried by deposition.

(A) The Plaintiff shall complete the taking of his/her evidence by deposition within sixty (60) days of the date the last

of the Defendants has filed an answer or other responsive pleading, or is otherwise before the Court. Following the taking of Plaintiff's proof, the Defendant shall have sixty (60) days to take evidence by deposition. Thereafter, the Plaintiff shall complete rebuttal evidence in fifteen (15) days. The parties may submit proposed findings of fact, conclusions of law and briefs within the ten (10) day period following the completion of evidence and before submission. The Court may enlarge the time limits set forth above upon motion and good cause shown.

(B) Upon the expiration of the time for the taking of proof, the action shall be submitted to the Court upon motion by either party.

2.05 INTERROGATORIES AND REQUESTS FOR ADMISSIONS

The party answering Interrogatories and/or Requests for Admissions shall state the question presented immediately preceding the answer thereto. Both the question and answer shall appear in the responsive pleading.

RULE 3: JURY SELECTION AND MANAGEMENT

3.01 JURORS

Jurors shall be selected in accordance with Part II, Section 3, of the Administrative Procedures of the Court of Justice. The chief circuit judge or his designee shall request a list of names of prospective jurors from the computer in the Administrative Office of the Courts, containing a list of county registered voters and persons over the age of eighteen (18) holding valid drivers'

licenses which were issued in the county. The chief circuit judge or his designee shall request such a list on an annual or more frequent basis, as needed.

3.02 BADGES

All jurors shall be furnished with badges to identify them as such. These badges shall be worn at all times that jurors are engaged in jury service.

3.03 SEATING

Sections of the courtroom seating shall be marked "Jurors Only" and shall be used by all jurors and members of the jury panel.

RULE 4: MEDIATION

4.01 CASES FOR MEDIATION

The Circuit Judge may refer any civil case to mediation except a habeas corpus case or election contest.

4.02 MEDIATION REFERRALS

The Circuit Judge may, by appropriate order, refer a case to mediation with the consent of the parties. Cases shall be referred to a Court approved mediator, preferably one which is an attorney with trial experience.

4.03 DISCOVERY

Referral of a case to mediation shall not operate as a stay of discovery proceedings unless otherwise ordered by the Court or agreed to in writing by the parties.

4.04 CONFIDENTIALITY

Except as otherwise provided by these rules or ordered by the Court for good cause shown, all mediation documentation and mediation communications are confidential and shall not be disclosed. They are not subject to disclosure through discovery or any other process, and are not admissible into evidence in any judicial or administrative proceeding. No part of the mediation proceedings shall be considered a part of the public record.

4.05 REPORTING

If a case is settled prior to or during mediation, an attorney for one of the parties shall prepare and submit to the Court an order reflecting the fact of settlement as in any other case. If some, but not all, of the issues in the case are settled during mediation or if agreements are reached to limit discovery, or on any other matter, the parties shall submit a joint statement to the Court enumerating the issues that have been resolved and the issues that remain for trial.

RULE 5: DOMESTIC RELATIONS

There is hereby created the Office of Domestic Relations Commissioner of the Knott and Magoffin Circuit Courts. The Domestic Relations Commissioner shall hear all contested and uncontested matters arising from actions for the dissolution of marriages, child custody, support and maintenance. All of these cases shall be governed by the Order which establishes procedures for Domestic Relations Cases.

These proposed local rules will be submitted to the Kentucky Supreme Court for review and final approval in accordance with SCR 1.040 (3) (a) and will become effective when approved by the Supreme Court and filed with the Supreme Court Clerk.

Signed and Entered this 11th day of April, 1996.


JOHN ROBERT MORGAN, JUDGE
THIRTY-SIXTH JUDICIAL CIRCUIT

COMMONWEALTH OF KENTUCKY
THIRTY-SIXTH JUDICIAL CIRCUIT

LOCAL RULES OF COURT GOVERNING CRIMINAL CASES

The following procedures will be implemented and strictly enforced in all criminal cases in the Knott and Magoffin Circuit Courts:

1. In cases in which an indictment has been returned and the Court has jurisdiction over the person of the Defendant (Defendant is either in jail or on bond or other pre-trial release established by action of the District or Circuit Court):

(A) An order or notice of the date, not later than thirty (30) days after the indictment is returned, except for extraordinary cause, upon which the Defendant will be arraigned in Circuit Court, will be issued and sent by the Clerk to counsel of record for the Defendant. It will be defense counsel's responsibility to notify his or her client of the arraignment date and to inform the Defendant that he or she must attend, with counsel, on the arraignment date. If the Defendant fails to appear on the scheduled arraignment date, a bench warrant will be issued and the bond or other pre-trial release will be revoked, subject to review at a subsequent hearing on bail.

(B) At the arraignment, the Defendant shall be served with a copy of the indictment and, unless waived, formally arraigned thereon. If there are any issues pertaining to pre-trial release or bail, those matters will be discussed and appropriate action taken.

(C) No later than twenty (20) days after the arraignment, counsel for the Commonwealth and counsel for the Defendant shall confer. Plea negotiations will be discussed. Upon request, counsel for the Commonwealth shall:

(i) Permit Defendant's attorney to inspect and copy any written or recorded statements or confessions made by the Defendant, or copies thereof, within the possession, custody or control of the Commonwealth (including police departments or other agencies), the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the Commonwealth.

(ii) Permit Defendant's attorney to inspect and copy any relevant results or reports of physical or mental examination, and of any scientific tests or experiments made in connection with the case, or copies thereof, within the possession, custody or control of the Commonwealth (including police departments or other agencies), the existence of which is known, or by the exercise of

due diligence may become known, to the attorney for the Commonwealth.

(iii) Permit Defendant's attorney to inspect and copy any recorded testimony given in his or her case before the Grand Jury.

(iv) Permit Defendant's attorney to inspect and copy or photograph any relevant books, papers, documents, tangible objects, buildings or places within the possession, custody or control of the Commonwealth (including police departments or other agencies), the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the Commonwealth.

(v) Permit Defendant's attorney to inspect and copy any and all information indicating Defendant's prior criminal record.

(vi) Permit Defendant's attorney to inspect, copy or photograph any evidence favorable to the Defendant.

(vii) Permit Defendant's attorney to inspect and copy or photograph any other materials or evidence disclosure of which is required by the Kentucky Rules of Criminal Procedure or any law of the Commonwealth of Kentucky.

(viii) Permit Defendant's attorney to inspect and copy or photograph any other materials or evidence disclosed by agreement of the parties. The Commonwealth is encouraged to continue its "open file policy" regarding discovery.

(D) Any duty of disclosure and discovery set forth in this order is a continuing one and the attorney for the Commonwealth shall promptly produce any additional information gained by the Commonwealth.

(E) The Court will set a pre-trial conference date not less than sixty (60) days after the indictment is returned. Counsel shall have their schedules available at the arraignment so that conflicts may be avoided in setting the pre-trial conference date.

(F) Counsel for the Commonwealth and counsel for the Defendant shall meet and confer no less than fifteen (15) days prior to the pre-trial conference for the purpose of discussing matters that will be handled at the pre-trial conference. At the pre-trial conference, the parties shall be prepared to take up the following matters:

(i) Pending and anticipated motions. Defensive motions shall be filed in writing and served upon counsel for the

Commonwealth within the time set at the arraignment/pre-trial conference and the Commonwealth shall file its written response thereto within the time established at the arraignment/pre-trial conference.

(ii) Identification and authentication of documents, physical evidence, and demonstrative evidence.

(iii) Need for evidentiary hearings and the scheduling thereof.

(iv) Rulings on evidentiary matters.

(v) Rulings, where possible, on any other issues or problems that counsel anticipate will arise at trial.

(vi) Status of discovery; anticipated length of trial; and a date the case will be set for trial.

(vii) Counsel will also be prepared to argue and dispose of all pending motions at the pre-trial conference and to disclose the nature of all other anticipated motions. Orders will be issued at the pre-trial conference for preparation, briefing, and argument of all other proposed motions.

(G) At the pre-trial conference, the Court will set the case for trial on a date certain. Counsel are to come with their schedules so that conflicts may be avoided. Once set for trial, cases will not be continued except for good cause shown in extraordinary circumstances. Counsel shall bring their schedules to the pre-trial conference so that conflicts may be avoided in setting dates for evidentiary hearings and hearings on motions.

(H) Unless relieved by Order of the Court, any attorney who has entered an appearance for the Defendant will be present and will represent the Defendant at trial. Motions for substitution of counsel will not be granted unless made sufficiently in advance of trial to permit successor counsel to be prepared and ready for trial on the date set at the pre-trial conference.

(I) All discovery will be completed no later than thirty (30) days before trial. In the event there are any disputes concerning discovery, motions relating thereto will be filed no later than twenty-five (25) days before trial and, if necessary, the Court will schedule hearings on those motions as expeditiously as practicable.

(J) Reciprocal Discovery. The Defendant will be bound by all rules of discovery that are binding on the Commonwealth. The Defendant shall provide this discovery in the same time and manner as the Commonwealth as set forth in these Rules.

(K) Open File Policy. The Commonwealth shall provide discovery under the open file policy. Under the open file policy the Commonwealth will not be required to answer formal discovery requests filed by the Defendant including, but not limited to, Bill of Particulars, Request for Production of Documents and Request for Grand Jury Proceedings. If the Defendant does not wish to proceed under the open file policy, then the Commonwealth will answer all discovery motions as ordered by the Court; the Commonwealth will not have to provide open file discovery to any Defendant who proceeds under the formal discovery process, but will only provide such discovery as ordered by the Court.

(L) Continuances. No continuances will be granted except for exceptional and good cause shown. The following, however, will not be grounds for continuing any trial:

(i) Failure of a Police Officer and/or victim to sign an affidavit requesting that the case be dismissed.

(ii) That the Defendant is in the process of making restitution, but has not completed payment.

(iii) Failure of the parties to complete discovery or comply with discovery orders, unless, by motion made no later than twenty-five (25) days before trial, in conformity with sub-part 9 of this Rule. Failure of the Commonwealth to comply with standing

orders pertaining to discovery or any order issued upon motion may result in dismissal of the indictment.

(iv) That any attorney who has entered an appearance on behalf of a Defendant desires to be relieved of responsibility for further representation of the Defendant. Once an attorney has entered his or her appearance as counsel for the Defendant, that attorney will be expected to try the case on the date scheduled, unless by motion and order of the Court issued sufficiently in advance of the trial date, successor counsel has been substituted in sufficient time to be prepared to try the case on the date scheduled.

2. In cases in which an indictment has been issued, but the Court does not have jurisdiction over the person of the Defendant, (Defendant is neither in jail nor on bond or other pre-trial release established by action of the District or Circuit Court), the following procedures will be followed:

(A) The Court will issue a warrant for the Defendant's arrest and schedule an arraignment date within thirty (30) days to permit the Commonwealth time to serve the warrant. When the warrant is served, the Defendant will be arraigned no later than at the next regular motion hour. Thereafter, the case will proceed as specified in Part A of this Rule.

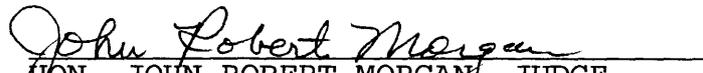
(B) If the warrant has not been served within thirty (30) days, the Clerk will place the matter on the Court's docket at the next regular motion hour for review. If, at that time, the attorney for the Commonwealth reports that it is likely that service will be effected upon the Defendant if additional time is allowed, the Court will grant an additional continuance of up to thirty (30) additional days. A longer period may be granted within the discretion of the Court in exceptional circumstances. If, within the period the matter has been continued, the Defendant has been served, he or she will be arraigned no later than the next regular motion hour and, thereafter, the case will proceed as prescribed in Section A of this Rule.

(C) If, within the period(s) of the continuances provided for in Section B(2) of this Rule, the Defendant is not served, the Defendant will be declared a Fugitive and the case will be removed from the Court's docket. In that event, the Clerk will so notify the Administrative Office of the Courts (AOC) by mailing the appropriate form, that the case has been removed from the Court's active docket. If, thereafter, the Defendant is apprehended, the matter will be re-docketed, the Defendant will be arraigned no later than the next regular motion hour, and the case will proceed as prescribed in Section 1(A) of this Rule.

These proposed Rules will be submitted to the Kentucky Supreme Court for review and final approval in accordance with SCR

1.040(3) (a) and will become effective when approved by the Supreme Court and filed with the Supreme Court Clerk.

Signed and Entered this 11th day of April, 1996.


HON. JOHN ROBERT MORGAN, JUDGE
THIRTY-SIXTH JUDICIAL CIRCUIT