Supreme Court of Kentucky

ORDER

IN RE: **ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 34TH JUDICIAL DISTRICT COURT, McCREARY AND WHITLEY COUNTIES**

Upon recommendation of the Judges of the 34th Judicial District, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 34th Judicial District, McCreary and Whitley Counties, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this Court.

Entered this the 13th day of April 2012.

CHIEF JUSTICE JOHN D. MINTON, JR.

COMMONWEALTH OF KENTUCKY
34TH JUDICIAL DISTRICT
WHITLEY DISTRICT COURT
McCREARY DISTRICT COURT

LOCAL RULES

RULE 1. INTRODUCTION/ADMINISTRATIVE PROCEDURE

101. Introduction/Preface

The following Local Rules are adopted in order to promote and facilitate the fair and efficient administration of justice in the courts of the 34th Judicial Circuit, Whitley and McCreary District Courts. These rules are designed to inform the public as to how the court system operates, to assist the practitioner in the presentation of cases, and to generally enhance the dignity of and respect for the local court system. All previous rules adopted by the Whitley and McCreary District Courts are rescinded.

102. Effective Date

The effective date of these rules shall be the date of Supreme Court approval.

103. Citation

These rules may be cited as the District Court Rules of Procedure and Practice or by the abbreviation DCRPP.

104. Assignment of Cases

Cases are assigned on a rotation basis between the two district judges.

105. Holidays

The Court observes the AOC holiday schedule. That schedule is available in the District Court Clerks' offices.

RULE 2. COURT SCHEDULING/MOTION HOUR/PROCEDURES FOR FILING

201. Regular Court Schedule

Whitley District Court – Williamsburg Docket

Mondays 9 a.m. Preliminary hearings and pretrial conferences
1 p.m. Arraignments

Tuesday 9 a.m. Juvenile Docket
1 p.m. Domestic Violence, civil, small claims, probate, and show cause/payment review

Wednesday (1st Wednesday of the month) 9 a.m. Trials

Wednesday (4th Wednesday of the month) 9 a.m. Pretrial conferences

Thursday 1 p.m. Video jail arraignments

Whitley District Court - Corbin Docket

Mondays 9 a.m. Domestic Violence, civil, small claims, probate, and show cause/payment review

1 p.m. Juvenile Docket

Tuesday 9 a.m. Arraignments
1 p.m. Preliminary hearings and Pretrial conferences

Wednesday (2nd Wednesday of the month) 9 a.m. Pretrial conferences

Wednesday (3rd Wednesday of the month) Trials

McCreary District Court

Wednesday (1st, 3rd, and 4th of the month) 9 a.m. Trials

Wednesday (2nd of the month) 9 a.m. Civil, small claims and probate

Thursday 9 a.m. Arraignments, show cause/payment review
11 a.m. Domestic Violence

Friday 9 a.m. Juvenile docket

202. Exceptions to Regular Schedule

Emergency Custody Hearings and Probate Hearings shall be scheduled on other court days as needed.

203. Deadlines for Serving and Filing Motions

Motions must be filed and served no later than five days prior to the day of the scheduled hearing, unless a different time is required by other rules of court.

RULE 3. DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

See Appendix A which is attached hereto and incorporated herein as if set out in full for the Protocol adopted by both Circuit and District Courts.

RULE 4. PATERNITY

There is no local rule regarding this subject. See Family Court Rule of Procedure and Practice (FCRPP) 14 and 15 for uniform statewide rules of procedure.

RULE 5. DEPENDENCY NEGLECT AND ABUSE

501. Procedure for Emergency Custody Orders

During normal business hours, a person, including a state social worker, seeking emergency custody shall file the petition with the appropriate District Court Clerk's Office. The Clerk shall refer the petition to a District Judge, or in McCreary County to the Trial Commissioner if no District Judge is available.

After normal business hours, a person seeking emergency custody shall obtain the form and file the petition at the 911 Dispatch Center. The petition shall be forwarded to the District Judge on call.

If emergency custody is granted, a temporary removal hearing shall be scheduled within 72 hours, regardless of the regular time for hearing juvenile cases.

RULE 6. STATUS OFFENSES/PUBLIC OFFENSES

601. The Juvenile Division of the Whitley District Court has adopted the present Reclaiming Futures model. The purpose of this model is to screen and assess each child that comes into court with a status or public offense to determine if the juvenile has a substance abuse issue. If the child does have a substance abuse problem, then the juvenile will be referred to the Reclaiming Futures Treatment Program, which is a 9-12 month program. Protocol and Procedure

for this program will be made available to the juvenile and the juvenile's parent, custodian, or guardian upon acceptance into that program. In McCreary District Court, a similar program is also in place, but it is called the McCreary County School System Treatment Program.

RULE 7. MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

There are no miscellaneous rules.

RULE 8. CIVIL/CRIMINAL PRACTICE RULES

801. A party seeking a default judgment shall file a written motion with service on the defendant(s) indicating the time and place of the hearing. If a party who seeks default judgment is represented by an attorney, then appearance by counsel is mandatory.

802. The Court will not, except for good cause shown, release any person that has been incarcerated until the Pretrial Release Officer has interviewed that person and made recommendations to the Court.

803. If a defendant in a criminal case fails to appear at a scheduled court hearing and wishes to be placed back on the docket to address a bench warrant or a DOT failure to appear notice, the defendant shall file a written motion with the district clerk's office to be placed back on the docket of the judge issuing the warrant or notice.

Dated this 24th day of Apr. 1, 2013.

CATHY E. PREWITT, CHIEF JUDGE
DIVISION I

FRED WHITE, JUDGE
DIVISION II

Supreme Court of Kentucky

ORDER

IN RE: **ORDER APPROVING AMENDMENT TO APPENDIX A OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 34TH JUDICIAL DISTRICT, WHITLEY AND MCCREARY COUNTIES**

Upon the recommendation of the Judges of the 34th Judicial District, Whitley and McCreary counties, and being otherwise sufficiently advised,

The amendment to Appendix A of the Local Rules of Practice and Procedure for the 34th Judicial District is hereby approved. This order shall be effective as of the date of this Order and shall remain in effect until further orders of this court.

Entered this 8th day of January 2016.

CHIEF JUSTICE

TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
34TH JUDICIAL CIRCUIT AND DISTRICT
WHITLEY AND McCREARY COUNTIES

Pursuant to KRS 403.735 and KRS 456.030, and in compliance with Family Court Rule of Practice and Procedure Section IV, this local protective order protocol is established to ensure twenty-four hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) and to establish written procedures for matters in which there may be joint jurisdiction between the Circuit/Family and District Courts.

I. Uniform Protocol for Handling Cases

A. All petitions requested, completed and signed by persons seeking protection under KRS Chapter 403 or KRS Chapter 456 shall be made on form AOC-275.1, and shall be accepted and filed with the court. KRS 403.725, KRS 456.030.

B. All protective order cases must be processed consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerk's Manual.

C. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.

D. "No drop" policies which place limitations on a petitioner's right to modify or withdraw a petition for a protective order are not permitted. Pursuant to KRS 403.740 and KRS 456.060, any orders for relief issued directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault shall not order the petitioner to take any affirmative action.

E. Cases may be reassigned within the judicial circuit and, pursuant to FCRPP 12, a case may be transferred to another circuit if there is a pending dissolution or custody matter. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.

F. The court shall review a petition for a protective order immediately upon its filing. KRS 403.730, KRS 456.040. Petitioners shall not be sent away or left waiting for extended periods of time. Petitions should be reviewed within an hour of presentation to a judge or trial commissioner unless impossible due to no judge or trial commissioner being available.

II. Twenty-four Hour Accessibility

A. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **during** regular business hours:

Court Clerk and Deputy Court Clerks; the County Attorney and authorized staff.

B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:

Deputy Court Clerk who is specifically assigned this responsibility by the Clerk. Petitioner may go to the 911 Dispatch Center or any law enforcement officer for referral to that Deputy.

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

Any District Judge that is available. In Whitley County, if no District Judge is available, the petition shall be referred to any Circuit Judge. In McCreary County, if no District Judge is available, the petition shall be presented to the Trial Commissioner. If neither the District Judge nor the Trial Commissioner is available in McCreary County, then the petition shall be presented to a Circuit Judge.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The District Judge on call. If that District Judge is not available, see section C above.

III. Assignment of Cases

A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between district, circuit, and family court.

B. The judge reviewing a petition for an order of protection shall indicate in the "Court Action" section of the petition whether the resulting action is a domestic violence action under KRS Chapter 403 or an interpersonal protective order action under KRS Chapter 456.

C. The circuit clerk shall assign interpersonal protective order cases to the District Court.

D. The schedule for hearings on protective orders is as follows:

Whitley District Court – Williamsburg (Division I): Tuesdays at 1:30 p.m.
Whitley District Court – Williamsburg (Division II): Tuesdays at 1:00 p.m.
Whitley District Court – Corbin (Both Divisions): Mondays at 9:00 a.m.
McCreary District Court (Both Divisions): Thursdays at 11:00 a.m.

E. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.

IV. Contempt Proceedings

A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.

B. Petitioners seeking to initiate contempt proceedings should contact:

The Court Clerk during business hours. If it is after business hours, see IIB.

C. No petitioner may be held in contempt for failure to appear at a domestic violence hearing or prosecute a criminal violation of a protective order.

The undersigned hereby acknowledge that all general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judicial officers in the circuit:

DAN BALLOU, CHIEF JUDGE
CIRCUIT COURT, DIVISION I
DATE: 23 Nov 2015

PAUL K. WINCHESTER, JUDGE
CIRCUIT COURT, DIVISION II
DATE: November 23rd 2015

CATHY E. PREWITT, CHIEF JUDGE
DISTRICT COURT, DIVISION I
DATE: 11-24-2015

FRED WHITE, JUDGE
DISTRICT COURT, DIVISION II
DATE: 11-24-15