

54-A DISTRICT COURT

124 W. Michigan Ave., 6th Floor City Hall, Lansing, MI 48933

DISTRICT JUDGES
CHARLES F. FILICE
PATRICK F. CHERRY
FRANK J. DeLUCA
LOUISE ALDERSON
AMY KRAUSE



Court Administrator
ANETHIA BREWER

Magistrate
LAURA A. MILLMORE

To: New Attorney Conference
From: Shawn Farnum
Date: 02/27/09
Subject: Quick Topics

Arraignments: Cases where arraignments can and can not be waived.

Waivers not accepted:

1. All Felony Cases-Exam dates given at arraignments, fingerprinting of defendant required.
* Cases with active felony warrants must turn themselves in at LPD jail (preferably @ 10:00am), felony arraignments are not done on a walk-in basis unless the client has previously posted bond on the original warrant.
2. Domestic Violence & Cases assaultive in nature: Defendant is typically advised a PA53 (No contact order) imposed as a condition of bond.
3. Bench Warrant Arraignment/Contempt Issues-Failing to appear and failing to pay fines, arraignment not waived because contempt issue of why person did not appear or pay fine is addressed at arraignment.
4. All other types of arraignment may be waived **if** a waiver of arraignment signed by the defendant and an appearance are filed with the court prior to the arraignment hearing, simply filing an appearance with the court will not move a case forward.
5. Walk in clients-8-11am/1-4pm Monday through Friday. Jail everyday @ 10:00am & 3:00pm.

Adjournments:

1. Clerical and judicial staff do not grant adjournments.
2. Adjournments may be granted on cases by the assigned judge of record by stipulating with the correct prosecuting agency, either the Ingham County prosecutor or the Lansing City Attorney.
3. A new hearing date will be set by the court on cases where a stipulation to adjourn has been granted, the hearing will be rescheduled to the next available date, the court will not provide a new hearing date to be included in stipulations to adjourn.

Motions:

1. Motions should be submitted in writing to the judge assigned the case.
2. A judicial review will be conducted by the assigned judge to determine if an actual hearing date is needed, many motions are simply granted and a copy of the signed order is returned to the parties involved.

Driving Records:

1. Many clients are repeat visitors to the court because their driving privileges are suspended, to assist the client in clearing their driving record have them simply go to the nearest Michigan Secretary of State and inquire why their privileges are suspended.
 2. An "FAC sheet" is provided free of charge by the secretary of state which will list all outstanding suspensions that need to be cleared from a driving record to make the person eligible to apply for a license.
 3. Contact the court of jurisdiction on the FAC sheet to find out if the case suspending the clients license is closed or still active, closed cases usually require the client to simply purchase a clearance card to remove a suspension from their driving record. Open case must be paid or adjudicated and then the clearance card purchased to remove a suspension.
- * Just because a case is dismissed does not mean a suspension will be lifted if the suspension was imposed prior to the case being resolved, the client still needs to purchase a clearance card unless the suspension and clearance were waived by a judge.
- * Never assume that merely clearing up suspensions will re-instate a person's driving privileges, in many cases the secretary of state will still require a reinstatement fee or payment of a driver responsibility fee to reinstate a license. The only sure way to guarantee a person is eligible to drive is to clear all court suspensions and then have person inquire of the secretary of state if they are clear to drive, never count on the court to give permission for a person to drive because we are not the licensing bureau.

Repeat Offender Legislation/Restricted Licenses:

1. Judges may only grant restricted licenses on drug cases at sentencing, drug cases are defined as use or possession of a controlled substance, typically use or possession of marihuana or cocaine. Drug charges post or abstract to a person's license at sentencing, all other offenses such as traffic violations and OWI cases abstract to a driving record upon plea and then the secretary of state imposes suspension or restrictions as mandated by statute.
2. 625g permits- 625G permits are the paper licenses law enforcement issues at an OWI stop when they confiscate a person's plastic license. The permit is good until the overlying case is adjudicated at which point the abstract of conviction to the driving record notifies the secretary of state of the conviction and the appropriate penalty is imposed under the specific statute. Dismissed charges where a 625G permit was issued require the driver to take an

adjudication notice to the secretary of state, the adjudication notice is provided by the court that had jurisdiction over the case.

* One area that catches many attorneys and clients by surprise are mandatory suspensions imposed by the secretary of state, an implied consent suspension is posted to a driving record by the secretary of state whenever a person refuses a PBT request by law enforcement on the road or at the jail.

These suspensions typically are for 6 months or longer and are not removed even if a PBT violation is dismissed as part of a plea agreement. The secretary of state has a driver's license appeal division where persons can appeal an implied consent suspension, the local court of jurisdiction is basically powerless to remove such suspensions.

904C Title Holds:

1. A 904C title hold is that paper plate you see in the window of many vehicles, it is also issued by law enforcement at an OWI or DWLS stop. The metal plate for the vehicle is confiscated by the issuing officer and surrendered to the secretary of state, a hold is also placed on the vehicles VIN number that only allows the vehicle to be sold to a non-immediate family member. In cases where a 904C plate has been issued a client needs to take an adjudication notice from the court to the secretary of state when the case is adjudicated, plead to or dismissed. A \$5 fee is charged at this point at the secretary of state to replace the plate.

Criminal Histories:

1. May be obtained through the Michigan State Police, court personnel are restricted by statute from providing criminal history to defense attorneys or the public., the same applies to driving records.

2. Prosecuting agencies can share information with the defense bar that is on a criminal history.

CCH Convictions:

1. Applications to expunge convictions may only be heard by the court after the state police submit a criminal history report to the court and Michigan Attorney General, the time to request a motion date on an application is after your client has been processed by the state police, paid the application fee and received the MSP report back in the mail. Courts by statute cannot proceed to hold a motion hearing until this requirement has been preformed.

* Deferred cases, non-public cases & traffic offenses are not eligible to have the convictions set aside.

2. Return of fingerprints & arrest cards- Motion can be filed with the court of jurisdiction once charges are dismissed or if charges are never issued by the prosecuting agency, if the motion is granted it "wipes out" an arrest segment of a criminal history or the entire arrest, prosecution and judicial segment on dismissed cases.

* Why is this important to client? Future employers, landlords and credit agencies often check on a person's background.