



33rd and 424th Judicial District Courts
State of Texas
District Courts of
BLANCO • BURNET • LLANO • SAN SABA COUNTIES

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February 25, 2008

Hon. Sam Oatman,
District Attorney
33rd/424th Judicial Districts
P.O. Box 725
Llano, TX 78643

Criminal Defense Bar
via direct emails

Re: Status Docket Methodology

Dear Prosecutors and Defense Bar:

Accompanying this letter is a memo, a graphic document, and a sample order that you will recognize as representing the way things have been pushed in court of late. The purpose of this communication is to raise the level of awareness and to formalize these processes. Judge Mills and I have devised this together and we hope that by this process both sides of the criminal bar will have greater flexibility in managing their cases, yet the judges will still have control over the docket. We will not give up that control but want instead to pass greater responsibility for movement to both sides while realizing that one wants to move cases and one really doesn't. But both sides have a responsibility as officers of the Court to proceed in good faith and with diligence. Some thoughts about making this really work:

- The DA's office is making genuine attempts to present plea offers to the defense earlier. It is expected that both sides will have worked the case prior to the Status Docket.
- Don't wait until the Status Docket to finish negotiating. With the DA staffing in Llano/Burnet for the primary case responsibilities, it should be possible for the defense to find the ADA in charge of any given case and to discuss plea possibilities.
 - For those appearing in Burnet, YOU control whether we finish mid-day or midnight.
- If it gets to the trial docket, both sides must be ready on every case remaining on the trial docket.
- The trial dockets will be "frozen" about 30 days in advance of the trial date.
 - You can still plead them.
 - No cases will be added to the trial docket within 30 days of the date, as a rule.
 - The judge will determine the order of actually calling the cases for trial.
- For the Plea Docket, continue to
 - Get your clients in for PSI preparation.
 - Get the papers done in advance.
 - Have your client sworn in advance.

The Standing Order on criminal discovery and notices remains the same, only the methodology to setting cases on the trial or plea dockets is changed by these methods.

Very truly yours

/s/

Guilford L. Jones, III

C:\Documents and Settings\Gil\My Documents\33CrimDocketsSettingLetter.wpd

MEMORANDUM



From Guilford L. Jones, Presiding Judge, 33rd District Court _____

To: State and Criminal Defense Bar
Date: February 25, 2008
Subject: Clarification of "Status Docket" approach to criminal settings

After conducting a couple of dockets with the "Status Docket" methodology I thought it best to clarify and amplify on a couple of things. Judge Mills and I have gone over all of this and both courts will be proceeding as outlined below.

Accompanying this Memo is a prototype of the Setting Order and a graphic flow chart depiction of that order. I hope the flow chart will assist in contemplating how it is envisioned this methodology will work.

The **overriding principle** is that this method places a great deal of responsibility on both sides of the criminal bar to get their business done, yet maintain ultimate judicial control over the docket. The **primary goal** is to increase efficiency of the judicial process which is defined for our purposes as giving each level of case the attention it truly deserves, disposing of cases that do not need a trial for resolution in the shortest feasible period of time while reserving trial time only for those cases truly needing a trial. Efficiency is not measured merely by disposing of cases quickly, but as quickly as possible while still ensuring constitutional due process.

Three main points will be evident in this method:

1. Case management is differentiated at the point of arraignment according to the felony level and complexity of the cases.
2. The **Status Docket** is a pivotal step in the process, at which point the Court will insist that both sides have a clear understanding of their cases and at which time its direction can be determined. It is expected that 90% of all cases on the status docket will move to a plea track.
3. The only **cases reaching the trial docket** will be cases deserving of trial. It is expected that an additional 5% of the cases on the original status docket will have been resolved, leaving only 5% of the status docket ultimately remaining on the trial docket.

Therefore, the Court will expect that every case on the trial docket is ready for trial. They will be called in cause number order with preference to jail cases and cases with truly unique scheduling requirements. Trial cases will reach a docket no later than 120 days from indictment except for

cases truly needing more time and only after a bench conference to ascertain necessary scheduling.

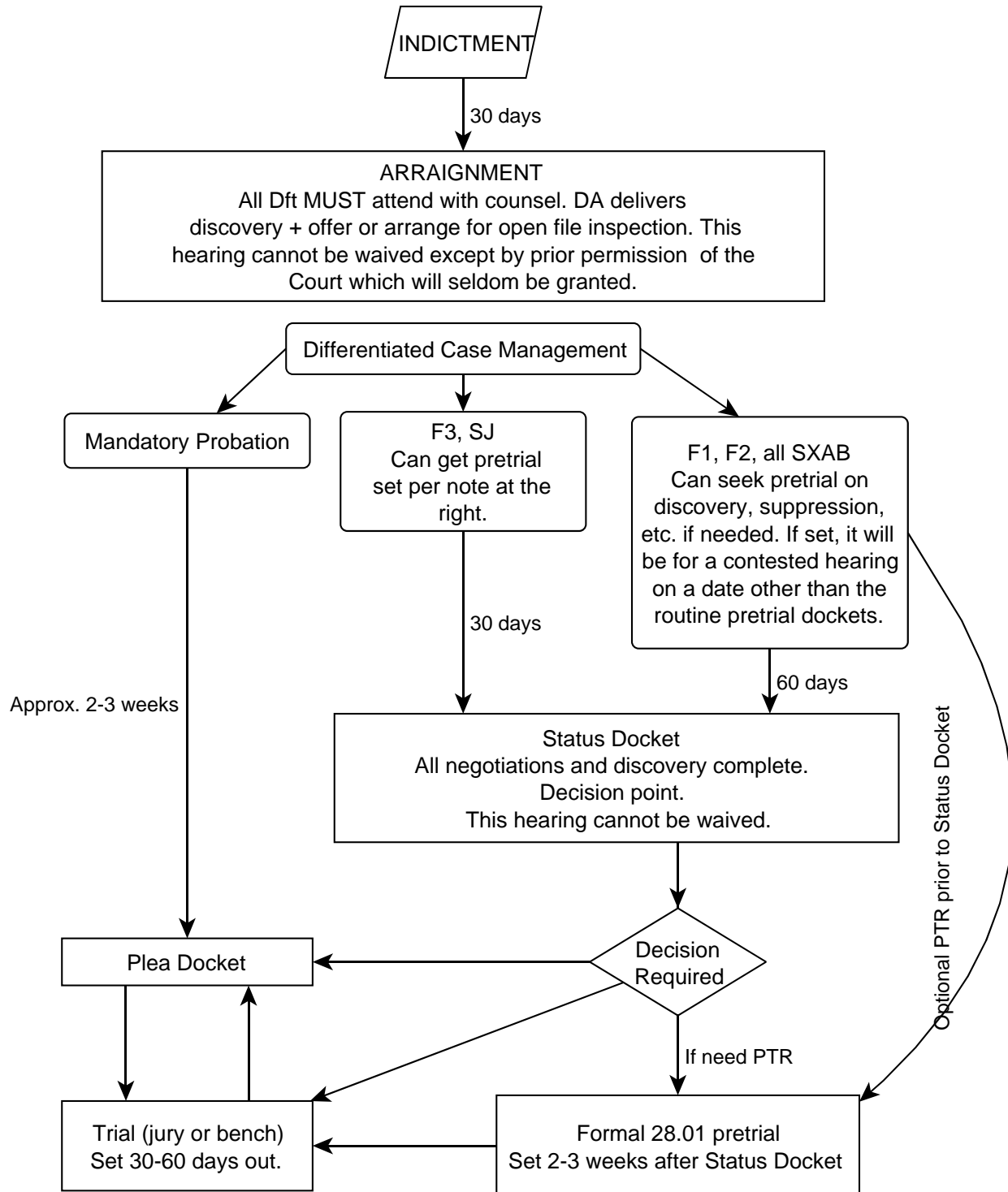
Thus you can see the extreme **importance of the Status Docket** in weeding out the non-trial cases. For this reason you will find both judges pushing hard and staying as long as necessary on the status dockets to ensure that only trial-worthy cases are announced for the trial docket. It is expected that both sides will have done everything possible **prior to the status docket** to resolve the case but no announcement will be accepted for the plea/trial track decision until the Court is convinced that such is a legitimate result.

The Court will utilize appropriate *ad hoc* procedures to deal with trial cases not being ready or any perceived “jamming” of the dockets leading to either too many cases remaining on the trial dockets or lengthening of the 120 day goal without justification.

Enclosures: As stated

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Criminal Scheduling eff. 1/1/2008



THE STATE OF TEXAS
v.

No.
§
§
§

IN THE DISTRICT COURT OF
COUNTY, TEXAS
JUDICIAL DISTRICT

**ORDER SETTING MOTIONS, DISCOVERY & TRIAL SCHEDULE and
PRETRIAL NOTICE UNDER ARTICLE 28.01 C.C.P.**

The Court enters the following Setting Order upon defendant’s plea of “Not Guilty” at arraignment or upon appearance of counsel or the subsequent filing of pretrial motions.

Counsel for the defendant shall notify the defendant of all Court settings and, if the defendant is on bond, advise the defendant that he/she must be present on the dates and times specified in this Order. All settings are in the 33rd/424th Judicial District Courtroom in the County where the case is pending. Abbreviations used in this order: C.C.P. means the Texas Code of Criminal Procedure; TRE means the Texas Rules of Evidence.

NOTICE OF STANDING ORDER: THERE IS A STANDING “DOCKET CONTROL ORDER” WHICH IS FILED IN THE OFFICE OF THE DISTRICT CLERK, AND IS INCORPORATED BY REFERENCE JUST AS IF FULLY SET OUT HEREIN. THE DOCKET CONTROL ORDER EXPLAINS THE ACTIVITIES EXPECTED AT EACH HEARING AND INCLUDES SUPPLEMENTAL DISCOVERY ORDERS AND A TRIAL ORDER. IT IS THE RESPONSIBILITY OF COUNSEL TO OBTAIN AND BE FAMILIAR WITH ALL PROVISIONS CONTAINED THEREIN. The standing order is also available at http://dcourt.org/forum/standing_orders.

SETTING ORDER

Date/Time and DESCRIPTION OF HEARING TYPE & ACTIVITY

- 1 **Date and Time As ordered in the Precept to Serve Indictment or Capias**
ARRAIGNMENT. Appearance of defendant and counsel is required. It is expected that at this time the State will either deliver a discovery packet to the defense or make arrangements for open-file inspection and that either an offer will be conveyed in writing or the defense will be advised that none is to be forthcoming.
- 2 **Request for Pretrial:** If prior to the status docket either side perceives a genuine need for a pretrial that may assist the decision required at the status docket (such as a suppression hearing), any necessary motions may be filed and a hearing requested with notice to the other side and with a certificate of conference regarding the request. Defense counsel are reminded not to file motions redundant of matters contained in the Court’s standing Docket Control Order.
- 3 **AT – STATUS AND ANNOUNCEMENT HEARING DOCKET.** This appearance cannot be waived. Defendant and counsel MUST appear. IT is expected that both sides will be able to make a clear and unequivocal announcement as to the need for a trial, or not.
It is expected that at this time there will be no pending discovery issues, that an offer will have been timely conveyed, and that either an agreement will have been reached or negotiations exhausted.
The Court will then in open court assign the case to either a trial track or plea track.
If assigned to a trial track, defense must at this time request an Art. 28.01 hearing or it will be waived.
If a 28.01 hearing is requested you are hereby advised as follows: All Art. 28.01 Motions must be filed and served upon the other side at least 14 days prior thereto (rather than the seven days provided in the C.C.P.). It will be set as a contested hearing and the State will be expected to have any necessary witnesses present (such as to defend a motion to suppress).
If assigned to a plea track with a final plea-bargain having been reached, you are reminded as follows:
REQUIREMENTS: File with the clerk (a) the promulgated plea bargain agreement and (b) a written waiver of jury trial, each signed by the defendant and both lawyers, and send the defendant immediately to CSCD for preparation of a PSI (or notify CSCD if defendant is in jail). This applies whether the plea is for probation or confinement.

Fax a copy of both papers to the Court Coordinator at 512-756-8478.

If assigned to a plea track for an anticipated plea, then the foregoing requirements must be met immediately upon reaching a firm plea-bargain. If no bargain is reached the case is subject to being moved to the top of the next available trial docket

ORDER REGARDING MOTIONS

In addition to any local or other rules concerning motions, no motion may be filed without first conferring with opposing counsel and attempting to resolve the matter and including a certificate of conference on the motion which indicates the fact of the conference and the result thereof. Additionally, a certificate of service must appear thereon which indicates the specific addressee and the full address, manner and means of service, plus certificate of conference.

SIGNED this day.

Judge Presiding