

JAN 27 2025

CHE ALEXANDER
Clerk of Superior Court
Fulton County, GeorgiaIN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**STANDING CASE
MANAGEMENT ORDER FOR
CRIMINAL CASES IN JUDGE
McBURNEY'S DIVISION**25EX 060374*(REVISED 27 January 2025 -- supersedes all previous versions)*

YOU SHOULD READ THIS ENTIRE ORDER, AS YOU ARE BOUND BY ITS PROVISIONS. HOWEVER, IF YOU ARE GOING TO READ ONLY ONE THING, READ THIS BOX.

1. Discovery is not warfare. Sharing is caring.
2. Don't forget to provide expert notices and summaries. Your expert will be very quiet if you don't.
3. E-mail copies of every motion to Ms. Nelson. Every one.
4. Do NOT file omnibus motion packets. One motion at a time please.

The following rules and procedures govern criminal cases in this Division during the pre-trial phase. The Court has issued a separate standing Order governing trial practice. Absent express permission from the Court, no exceptions or waivers to the requirements set forth herein are allowed. *Discovery and motions deadlines for each case will be provided via a separate individualized scheduling order.*

I. CONTACTING THE COURT

Deedra Nelson, Litigation Manager, is your principal contact; she can be reached at 404.612.6915 or deedra.nelson@fultoncountyga.gov. Ms.

Nelson is, as you might guess, a busy person; she will return your message as soon as she is able. Mailed and hand-delivered communications should be addressed as follows:

Deedra Nelson
185 Central Avenue SW
Suite T-8855
Atlanta, GA 30303

Electronic communication is encouraged; *ex parte* communication is not. Always copy the opposing side on your e-mails to the Court. Documents e-mailed for the Court's *review* (motions and other pleadings) should be sent in .PDF format. Documents e-mailed for the Court's *signature* (proposed orders, etc.) should be sent in Microsoft Word format. Proposed orders should never be e-filed.

II. DISCOVERY

General. A deadline for completing non-expert discovery will be provided in a separate scheduling order issued after arraignment (or waiver thereof); this deadline supersedes any deadlines set forth in O.C.G.A. §§ 17-16-4 and 17-16-7. Motions for an extension of the discovery deadline must provide a detailed, fact-based explanation of the need for the extension and a courtesy copy should be sent to Ms. Nelson, along with a proposed order.

The parties remain at all times subject to the ongoing discovery requirements of state and federal law, to include the State's obligation to provide arguably exculpatory and impeachment evidence to the Defendant. *See* O.C.G.A. § 17-16-4(c). The Defendant is directed not to file generalized motions compelling disclosure of otherwise discoverable materials. Rather, the Defendant shall limit discovery litigation to specific instances in which the Defendant believes the State has failed to comply with its discovery

obligations. The State shall similarly limit discovery litigation to concrete instances of a defendant's failure to comply with the law.

Deficiencies. To that end, either party may file a notice of discovery deficiency. Such notice may be filed at any time after the discovery deadline has passed. (A sample notice is included in the Document Appendix to this Order.) This notice must be e-filed and sent to Ms. Nelson. If the served party does not cure the alleged deficiency within ten days (or otherwise adequately explain the delay), the filing party may, after the expiry of the ten days, send the Court a proposed order excluding the missing discovery. (A sample proposed order is included in the Document Appendix.) The Court will, at its discretion, conduct a discovery teleconference or an in-person hearing. If bad faith and prejudice are shown, the Court may, pursuant to O.C.G.A. § 17-16-6, exclude the evidence from further proceedings.

Experts. Any party seeking to rely on expert testimony at trial (or any evidentiary hearing) must provide written notice to the opposing party at least ten calendar days before the trial or hearing. This notice shall include a *meaningful* summary of the expert's expected testimony -- something more than "Witness will testify about blood spatter patterns" -- as well as her qualifications to serve as an expert witness.¹ If the expert has prepared a report, that report should be attached to the notice if it has not already been provided in discovery. If the expert has not prepared a report, that fact should be included in the notice.

¹ Two exceptions to this "meaningful summary" requirement: (1) medical examiners who will be testifying about autopsies they performed or supervised and (2) GBI and other law enforcement professionals who performed forensic work, *provided that* a report of their findings has been provided in discovery.

The notice must be provided at least ten days before trial and five days before any evidentiary hearing. Failure to provide this substantive notice may result in exclusion of the expert.

III. MOTIONS

O.C.G.A. § 17-7-110's ten-day post-arraignment motions deadline does not apply in this Division. Instead, a deadline for filing motions will be included in the scheduling order issued after arraignment. Motions filed after the Court's deadline are untimely and generally will not be considered, absent a showing of just cause for the late filing (such as late provision of discovery). Any requests for extensions should be e-mailed to Ms. Nelson (copying opposing counsel) with a detailed, fact-based explanation of the need for the extension.

This court-supplied motions deadline applies as well to (1) demurrers, (2) "immunity" motions pursuant to O.C.G.A. §§ 16-3-22.1 and 16-3-24.2, (3) other pleas in bar, (4) Defendant's notice of intent to raise issues of insanity or mental illness, *AND* (5) notices to admit evidence pursuant to O.C.G.A. §§ 24-4-404(b), 413, 414, and 418.

The one standing exception to this deadline is for motions *in limine* seeking the Court's ruling in advance of trial on minor, discrete evidentiary issues (*e.g.*, the (in)admissibility of a particular record or fact). These are typically matters whose significance is not readily apparent prior to focused trial preparation. Such motions will seldom require the presentation of witness testimony and typically can be ruled upon orally immediately before trial. Motions to suppress, sever, dismiss, etc., are not properly cast as motions *in limine* and will not be permitted after the filing deadline -- again absent a showing of just cause.

Generalized motions and omnibus² motions are not to be filed; they will be denied as vague and dilatory. Motions seeking to suppress “everything” -- to include items not present in a particular case (*e.g.*, an identification in a case in which no identification was made) are improper and should not be filed. Rather, each motion shall be limited to a single issue (*e.g.*, suppression of statement, suppression of fruits of search warrant, etc.); multi-issue motions seeking to suppress, for example, both physical evidence *and* statements are not proper. In this vein, motions must specify, *with particularity*, the item(s) or statement(s) or event(s) at issue. Thus, a motion seeking to suppress “any and all statements” is insufficient; the motion must identify the specific statement(s) the movant is seeking to suppress, as well as provide a theory of suppression.

All motions must be e-filed **and a courtesy copy sent to Ms. Nelson**. Failure to provide Ms. Nelson with a copy of your motion will typically result in that motion not being calendared for a hearing and may constitute waiver of the issue. Ms. Nelson does not comb the vast expanse of the Court’s criminal docket to hunt for your pleadings. They should arrive in her e-mail in-box if you want them addressed.

IV. FINAL PLEA

A defendant’s final plea hearing will either occur on a stand-alone calendar or else be concurrent with her first trial calendar. A defendant who enters a guilty (or *Alford* or *nolo*) plea on or any time before the day of her final plea hearing may withdraw her plea if she is dissatisfied with her

² “Omnibus” motions include those infamous pleadings favored by some practitioners that compile (conceal?) multiple motions (many of which typically are in no way pertinent to the specific facts of the case at issue and are replete with boilerplate language) into a single filing. **Every motion requiring the Court’s attention must be filed separately.**

sentence. This right of withdrawal (premised on sentence dissatisfaction) must be exercised on the record in open court on the same day the plea was entered. This right of withdrawal expires when Court adjourns that day.

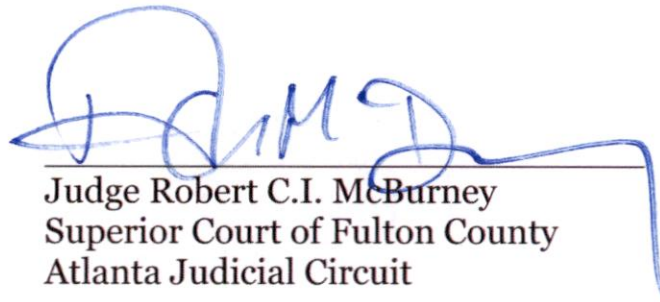
V. APPEARANCES

The default expectation is that everyone will appear in person for all court proceedings. However, every court proceeding will also be Zoom-accessible. Lawyers and Defendants choosing to appear virtually for purely procedural matters like an arraignment or status conference need only notify Ms. Nelson of that decision. Lawyers and Defendants seeking to appear virtually for substantive proceedings such as a suppression motion or a plea hearing must obtain permission from the Court before doing so.

VI. OFF-CALENDAR MATTERS

The Court is always open to resolving a case (or hearing a true emergency motion) before the deadlines established in your case's scheduling order. Please contact Ms. Nelson with such requests and she will find a place to squeeze it in.

SO ORDERED on this 27th day of January 2025.



Judge Robert C.I. McBurney
Superior Court of Fulton County
Atlanta Judicial Circuit

Document Appendix

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

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CRIMINAL CASE _____

JUDGE MCBURNEY

NOTICE OF DISCOVERY DEFICIENCY

This case was arraigned on _____. Discovery was due on _____. As of this filing, Defendant has not been provided with the following item(s) believed to be discoverable and the absence of which is prejudicial:

Submitted this ____ day of _____ 202__.

Counsel for Defendant

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

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CRIMINAL CASE _____

JUDGE MCBURNEY

ORDER EXCLUDING EVIDENCE

This case was arraigned on _____. The State was served with a Notice of Discovery Deficiency on _____. Ten days have since passed and the State has not cured the deficiency or otherwise demonstrated that, for good cause, it has been unable to do so. Consequently, pursuant to O.C.G.A. § 17-16-6, and based on its knowledge of the record of this case, the Court finds the deficiency to be prejudicial and in bad faith and therefore excludes the following items:

SO ORDERED this ____ day of _____ 202__.

Judge Robert C.I. McBurney
Superior Court of Fulton County