PMO-SJC-8

STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER
Order Issued September 23, 2020

Emergency Rules from the Supreme Judicial Court on Waiver of Initial Appearances

On March 13, 2020, the Supreme Judicial Court issued an Emergency Order reducing the number of people coming into state courthouses in light of the serious health risks posed by the novel coronavirus (COVID-19) pandemic. Thereafter, the Supreme Judicial Court issued a series of Pandemic Management Orders to address court proceedings during the pandemic and a Phased Management Plan ("the Plan"), which was initially issued on May 27, 2020.

In light of public health concerns and to reduce the number of people in the courtroom during arraignment proceedings, effective immediately, any represented defendant who is not in custody and is charged with a Class A, B, or C criminal offense may waive the defendant's initial appearance, unless otherwise ordered by the court.

To waive a defendant's initial appearance, the defendant's counsel shall file with the court a letter entering the attorney's appearance and stating that the attorney

1. Has fully explained the charges pending against the defendant to the defendant;

2. Has fully explained all of the defendant's rights to the defendant;

3. Has conferred with the defendant and the attorney confirms that the defendant agrees to waive the initial appearance;

4. Has conferred with the defendant and the attorney confirms that the defendant agrees to continue bail in place;

5. Has conferred with the District Attorney or Assistant District Attorney and the attorney confirms that the District Attorney has no objection to the waiver of the initial appearance;

6. Has conferred with the District Attorney or Assistant District Attorney and the attorney confirms that the District Attorney agrees that the currently existing bail is satisfactory and neither party seeks any modifications to bail; and

7. Will notify the defendant of the defendant's next court event as soon as the attorney receives notice from the court.

In addition, the defendant shall sign the letter confirming paragraphs 1-4 above.

Nothing in this emergency rule shall be construed to limit the authority of a judge or justice to consider bail modification upon the receipt of the defendant's waiver of initial appearance.

This emergency rule does not limit the defendant's ability to petition for a review of preconviction bail under 15 M.R.S. § 1029 or the Maine Rules of Unified Criminal Procedure.

Dated: September 23, 2020

For the Court:

/s/
Andrew M. Mead
Acting Chief Justice