PMO-SJC-8

STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER
Order Issued September 23, 2020
(Revised December 14, 2020)

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

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. In addition, any represented defendant who is not in custody and is charged with a Class B, C, D, or E criminal offense may waive the defendant's arraignment, unless otherwise ordered by the court.

To waive a defendant's initial appearance or arraignment, the defendant's counsel shall file with the court a letter entering the attorney's appearance, or in the instance of an attorney who has been appointed by the court, shall confirm that appointment as provided by paragraph 10 below, stating that the attorney

1. Has provided a copy of the complaint or indictment to the defendant;

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

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

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

5. Has conferred with the defendant and the attorney confirms that the defendant agrees to continue the bail amount and conditions already in place;

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

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

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

9. When the court event to be waived is arraignment, that the attorney has conferred with the defendant and confirms that the defendant wishes to enter a plea of "not guilty" to all charges; and

10. In the event counsel was appointed by the court, that an appointment was made and the date of the appointment.

The defendant shall confirm paragraphs 1 through 5 and 9 above by signing the letter filed by the defendant's attorney. In addition, if the court event to be waived is arraignment, the defendant's signature on the letter will confirm that the defendant wishes to enter a plea of "not guilty" to all charges. A sample letter is attached hereto as Attachment A.

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 right to petition for a review of preconviction bail under 15 M.R.S. § 1029 or the Maine Rules of Unified Criminal Procedure.

Dated: December 14, 2020

For the Court:

/s/

Hon. Andrew M. Mead
Acting Chief Justice

Attachment A

[INSERT HEADING, CAPTION, and DOCKET NUMBER IF AVAILABLE]

1. I, _____ attorney for the above-named defendant. I have provided a copy of the complaint or indictment to the defendant;

2. I have fully explained to the defendant the charge(s) pending against the defendant;

3. I have fully explained all of the defendant's rights to the defendant;

4. I have conferred with the defendant and I confirm that the defendant agrees to waive [initial appearance and/or arraignment] and enter a plea of not guilty;

5. I have conferred with the defendant and I confirm that the defendant agrees to continue bail and all bail conditions currently in place;

6. I have conferred with the District Attorney, Assistant District Attorney or Assistant Attorney General and I confirm that the prosecutor has no objection to the waiver of [the initial appearance and/or arraignment];

7. I have conferred with the District Attorney, Assistant District Attorney or Assistant Attorney General and I confirm that the prosecutor agrees that the currently existing bail is satisfactory and that neither party seeks any modifications to bail at this time; and

8. I will notify the defendant of the defendant's next court event as soon as I receive notice from the court.

9. [I have conferred with the defendant and I confirm that the defendant wishes to enter a plea of "not guilty" to all charges.]

10. [I was appointed by the court to represent the defendant on [date].]

_____ _____

Date Attorney Signature and Bar Number

My name is _____. I have conferred with my attorney, and my attorney has provided me with a copy of the complaint or indictment and has explained to me all my rights and responsibilities as outlined in Items 1-5 above. I agree to waive my [initial appearance and/or arraignment]. [I wish to enter a plea of "not guilty" to all charges in this case.] I also agree to continuing any bail and bail conditions that are currently in place. I agree to notify my attorney and the court promptly if my address changes. I further acknowledge that by signing this form, I am not waiving my right to seek a review of my bail pursuant to the provisions of 15 M.R.S. § 1029 or the Maine Rules of Unified Criminal Procedure.

Date:_____ Defendant: _____