

# THE MOUNT VERNON MUNICIPAL COURT

**John C. Thatcher**  
Judge

**Lisa R. Mazza**  
Clerk

## LOCAL RULES OF PRACTICE



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# **General Rules for Parties and Lawyers**

## **Rule 101: Filing of Documents**

The filing of a document with the court may be accomplished by presenting the document to the clerk of the court during the regular business hours of the clerk's office, by fax filing as described in Rule 106 below, or by sending the document to: Clerk of Court, The Mount Vernon Municipal Court, 5 N. Gay Street, Mount Vernon, Ohio 43050.

A document sent by mail or other delivery service will not be considered filed until it is received in the clerk's office.

## **Rule 101.1: Notice of Proceedings**

Pursuant to Ohio Criminal Rule 37, and to the extent required by Article I, Section 10a of the Ohio Constitution or by the Ohio Revised Code, the Court hereby directs that the prosecuting attorney of any jurisdiction prosecuting before it shall be responsible for providing the alleged victim(s), upon request, notice of all public proceedings involving the alleged criminal offense against the victim(s) and the opportunity to be present at all such proceedings.

## **Rule 102: Information to be Included on Court Filings; Signature**

On each document presented to the clerk for filing, parties and attorneys should list their names, addresses, telephone numbers, fax numbers, and email addresses. Attorneys should also list their Ohio attorney registration numbers.

In addition, the case name and case number should be listed on each document filed with the clerk, as well as the title of the document (for example, Defendant's Motion to Continue, Plaintiff's Pretrial Statement, etc.).

The original of every document filed with the clerk should be signed by an attorney representing the party on whose behalf the document is filed. A party who is not represented by an attorney should sign any document being filed.

### Rule 103: Personal Identifying Information May Be Redacted

To protect legitimate personal privacy interests, social security numbers and other personal identifying information should be redacted from documents before the documents are filed. The responsibility for redacting personal identifying information rests solely with the attorneys and parties who present the documents to the clerk for filing. The clerk will not review documents to confirm that personal identifying information has been redacted.

If personal identifying information is redacted or omitted from a document, the information should be provided to the court on a separate form that indicates what information has been redacted or omitted and provides the location of the redacted or omitted information. A suitable example of that type of form is included in the appendix to the Rules of Practice of the Supreme Court of Ohio.

### Rule 104: Mechanical Requirements for Court Filings; Pagination

All documents presented to the clerk for filing should be on paper that is 8.5 by 11 inches in size, and the text of all documents should be no smaller in size than 12-point type. The margin on the top of each page should be at least one inch so that the clerk can punch holes in that margin without obscuring the document's text.

Every multi-page document filed with the clerk should be paginated and should be firmly stapled in the upper-left corner of the document. Also, sufficient blank space should be visible in the upper-right portion of the first page of each document so that the clerk can date-stamp the document without obscuring the document's text.

The clerk may accept handwritten documents for filing, but the clerk may reject any document that is not clearly legible.

#### Rule 105: Copies of Motions and Other Filings

Only the signed original of a motion (or other written filing) need be presented to the clerk, unless the court's cost schedule specifies that multiple copies are required. If the motion or other document is to be filed in two or more case files, however, then the party presenting the document should provide sufficient copies with the original so that the clerk can place a copy in each case file to which the motion or other document pertains. (That is, if a motion is to be filed in both a criminal case and a traffic case involving the same defendant, the original and one copy of the motion should be filed with the clerk).

A party filing a motion to suppress in a criminal or traffic case should provide an extra copy of that motion to the clerk, who in turn will give it to the judge.

A party who wishes to receive a date-stamped copy of a document submitted to the clerk for filing should provide the clerk with an extra copy of the document, along with a sufficiently large envelope that is self-addressed and postage-paid.

#### Rule 106: Fax Filing

Pleadings and other papers may be filed with the clerk by facsimile ("fax"). The number for the clerk's fax machine is 740-393-5349.

A document filed by fax will be accepted as the effective original filing of the document. The person filing a document by fax should not mail or otherwise deliver the same document to the clerk a second time, but that person should maintain in his or her records the original signed copy of the

fax-filed document, as well as the fax cover sheet sent to the clerk with the document.

Fax filings must be no longer than 10 pages in length, not including the cover sheet.

Subject to the provisions of these rules, all documents sent by fax and received by the clerk will be considered filed with the clerk as of the date the clerk date-stamps the document, as opposed to the date and time of the fax transmission itself. Documents may be faxed to the clerk at any time, however, including times when the clerk's office is closed.

The risks of transmitting a document by fax to the clerk must be borne entirely by the sending party. Anyone using fax filing is welcome to verify with the clerk that the faxed document has in fact been received.

No fee is charged for fax filing itself, but any applicable court costs associated with the proposed filing must be paid before the faxed document will be accepted by the clerk and filed.

The cover sheet for a fax filing should list:

1. The name of our court;
2. The title of the case;
3. The case number;
4. The title of the document being filed;
5. The date of transmission;
6. The transmitting fax number;
7. An indication of the number of pages included in the transmission, including the cover sheet;

8. The name, address, telephone number, fax number, Supreme Court registration number (if any) and e-mail address of the person filing the faxed document;
9. If applicable, a statement explaining how costs are being submitted.

If a document is sent by fax to the clerk without the cover page information listed above, the clerk may properly treat the document as not having been filed. The clerk may, but is not required to notify the sender of a failed fax filing.

A party who wishes to file a signed document by fax must either fax the signed document to the clerk, or fax a copy of the document without the signature but with the notation “/s/” followed by the typewritten name of the signing person. A party who files a signed document by fax represents that the physically signed document is in his or her possession or control.

If an exhibit cannot be transmitted accurately by fax, the exhibit should be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit should be filed with the clerk, as a separate document, within five court days after the fax filing. The court may strike any document or exhibit, or both, if missing exhibits are not filed as required by this paragraph.

Any exhibit filed in accordance with the paragraph just above should be accompanied by a cover sheet listing the name of the case, the case number, and the title of the exhibit itself. The exhibit and the signed cover sheet should be served on all other parties.

#### Rule 107: Most Motions Should Be Accompanied By a Proposed Entry

Any party filing a motion with the court should present at the same time a proposed entry that the party wishes the assigned judge to sign. (No proposed entry need be tendered with a motion to suppress in criminal and traffic cases).

## Rule 108: Continuances

Any request for the continuance of a scheduled court hearing should be made in a written motion that is filed with the clerk, and the motion should describe one or more reasons for the request. If the request is grounded on an attorney's prior commitment in another court on the date of the scheduled hearing in this court, a copy of the scheduling notice from that other court should be attached to the request for a continuance in this court.

A party seeking a continuance of a scheduled hearing is welcome to suggest alternative dates and times when that party expects to be available for the hearing.

Parties should strive to avoid filing motions to continue jury and bench trials, and any such motions should be filed as soon as the party realizes that a continuance is necessary.

## Rule 109: Attendance at Hearings

Parties or their attorneys must attend scheduled hearings in their cases, and rarely is "I did not know about the hearing" an acceptable excuse for missing a hearing. The docket for each case is available on the court's web page ([www.mountvernonmunicipalcourt.org](http://www.mountvernonmunicipalcourt.org)) and notices about court hearings are provided by the court to attorneys and to unrepresented parties. The court expects attorneys and parties to stay on top of developments in their cases and to attend all hearings that are scheduled.

Attorneys are welcome to let the judge's staff know about dates when they will not be available to attend hearings at our court because of vacations or other commitments. The court will do its best to take that information into account when scheduling hearings.

## Rule 110: Court Costs



A list of the court costs to be collected by the clerk is set by the judge through an administrative order. The latest cost schedule is available at the clerk's office and on the court's web page at ([www.mountvernonmunicipalcourt.org](http://www.mountvernonmunicipalcourt.org)).

## **Rules Unique to Criminal and Traffic Cases**

### Rule 201: Specifying Method of Service of Complaints; Electronic Tickets

The prosecutor or the law enforcement agency filing a criminal or traffic complaint should indicate on the complaint or on accompanying documents either that the complaint has been served on the defendant or that a warrant or summons is requested. The clerk may refuse to file the complaint if it has not been served on the defendant and if no request for the issuance of a warrant or summons is provided to the clerk.

If a criminal or traffic complaint is filed after the date when the defendant was ordered to appear in court for an arraignment, the prosecutor or law enforcement agency filing the complaint must request the issuance of a new summons or a warrant.

Traffic tickets produced by computer or other electronic means may be filed at the court, and those electronically-produced tickets may be filed here either electronically or in paper form. The signature of the defendant is not required on those tickets, but aside from the color, weight, and binding requirements that typically apply to paper copies of traffic tickets in Ohio, any electronically produced tickets should conform in layout and content to the Ohio Uniform Traffic Ticket form. Any defendant to whom a traffic ticket is issued must be provided with a paper copy of the ticket in accordance with Rule 3(E) of the Ohio Traffic Rules.

### Rule 202: Waiving Court Appearances

As permitted by Ohio Criminal Rule 4.1 and Ohio Traffic Rule 13, the court has established a waiver schedule through an administrative order. Under that order, defendants in some traffic cases and some minor-misdemeanor criminal cases may waive their right to appear before the court and may enter a guilty plea by paying a fixed amount of money to the clerk. The latest list of so-called waivable offenses and the waiver amount corresponding to each offense is available at the clerk's office and on the court's web page ([www.mountvernonmunicipalcourt.org](http://www.mountvernonmunicipalcourt.org)).

#### Rule 203: Bail Bond Schedule; Motions to Reduce or Modify Bonds

As permitted by Ohio Criminal Rule 46(G), the court has established a bail bond schedule for certain criminal and traffic offenses. The clerk and local law enforcement agencies are authorized to release from custody those persons who are charged with one or more criminal or traffic offenses and who post bail in accordance with that schedule. The latest bail bond schedule is available at the clerk's office and on the court's web page ([www.mountvernonmunicipalcourt.org](http://www.mountvernonmunicipalcourt.org)).

All motions to reduce or modify the conditions of a bond shall be in writing and accompanied by a proposed entry. The prosecutor has three business days to respond to the motion.

#### Rule 204: Written Not-Guilty Pleas

A defendant in a criminal or traffic case may file a not-guilty plea in writing with the clerk rather than appearing in person to enter an initial plea. A written not-guilty plea form is available in the clerk's office. Once a not guilty plea is filed with the clerk, the defendant must appear at any pretrial conferences (unless the court excuses the defendant's attendance) and at the trial scheduled by the court (unless the court grants a request for a continuance).

A defendant named in multiple criminal and traffic cases should make sure that all relevant case numbers are listed on any written not-guilty pleas, as well as on any other filings in the cases.

In all domestic violence, assault and stalking cases, operating a motor vehicle under the influence of alcohol/drugs and all other cases charging crimes constituting a misdemeanor on the first offense and a felony on subsequent offenses, or for any misdemeanor described in division Section 109.572 of the Ohio Revised Code, the defendant shall personally appear for purposes of entering a plea, establishing bond, determining whether a temporary protection order shall issue and being ordered by the Court to appear before the Knox County Sheriff within twenty-four hours to have the defendant's fingerprints taken, the defendant shall personally appear for purposes of entering a plea, establishing bond and determining whether a temporary protection order shall issue.

#### Rule 205: Warrant to Be Recalled if Not-Guilty Plea Filed

If the court has issued an arrest warrant in a criminal or traffic case because the defendant failed to appear at an arraignment, the court is willing to recall the warrant without a hearing and set bail in the form of a personal recognizance bond, if an attorney enters a notice of appearance for the defendant, files a written not guilty plea, and files a motion asking for the recall of the arrest warrant. When those documents are filed by the defendant's attorney, he or she should include a draft order stating that the arrest warrant is recalled and that bail is set in the form of a personal recognizance bond. Once the judge has signed that draft order and the warrant has been recalled by the court, a bench trial or a pretrial will be scheduled in the case.

#### Rule 206: Time Waivers

Defendants in criminal and traffic cases who are willing to waive their constitutional and statutory right to a speedy trial are encouraged to do so by filing a written waiver of that right. The court will always honor the wishes of any defendant who wants to exercise his or her right to a speedy trial, and the exercise or waiver of that right is a matter of choice for each defendant to make. The waiver of that right frees the court's staff from the task of having to calculate the number of days still available for a trial in

each case, and a speedy-trial waiver gives the court more flexibility in the scheduling of hearings and trials. A waiver of the right, provided it is knowingly and voluntarily executed, is therefore always appreciated.

Unless and until a defendant waives the right to a speedy trial, the court will presume that the right has not been waived.

#### Rule 207: Extensions of Time to File a Motion to Suppress

After filing a speedy trial waiver and a discovery demand a Defendant is granted automatic leave to file a motion to suppress evidence as described in Criminal Rule 12, up to 21 days after the prosecutor's response to the discovery demand or 35 days after arraignment, whichever is later.

#### Rule 208: Prosecutor's Time to Respond to Defense Motions; Defendants' Time to Reply to Prosecutor's Responses

The prosecutor shall have seven calendar days to respond to all defense motions other than motions for reduction or modification of bonds. See Rule 203. Defendants may file a reply to the prosecutor's response within three days.

#### Rule 209: Pretrial Conferences; Jury Demands; Requests for Jury Views

Defendants are required to attend all pretrial conferences unless the court excuses the defendant's attendance. The court will schedule a first and second pretrial conference in all cases, followed by a final pretrial conference held in the same week the trial is scheduled to occur.

Defendants desiring to try their cases to a jury shall notify the clerk and prosecutor at least two weeks prior to their scheduled trial dates to ensure that a jury is summoned.

Any party requesting a jury view should raise that request no later than the second pretrial conference.

#### Rule 210: Diversion Programs for Certain Drug and Alcohol Offenders

The court's drug-and-alcohol diversion programs are intended to provide a short period of supervision and education to those persons who have been charged with any of several alcohol-related misdemeanor offenses or certain drug related offenses that are minor misdemeanors or fourth-degree misdemeanors and are willing to accept responsibility for their misconduct. The program is for first-time offenders. Those who successfully complete the program will not have a criminal conviction on their records. The goal of the diversion program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.

The program is open to first-time offenders (persons who have not already participated in diversion programs and who have not been convicted as an adult in this or other courts for any other criminal activity or any alcohol-related traffic offenses) whose pending charges are limited to any or all of the following: (1) misdemeanor violations of Chapter 4301 of the Revised Code (regulating the sale, possession, and consumption of alcohol) or comparable municipal ordinances; (2) minor misdemeanor violations of R.C. 2925.11(A) and 2925.11(C)(3)(a) (barring the possession or use of less than 100 grams of marijuana) or comparable municipal ordinances; or (3) fourth-degree misdemeanor violations of R.C. 2925.14(C)(1) (barring the use or possession of drug paraphernalia) or comparable municipal ordinances.

If a defendant is eligible for the program, the Court will then ask the defendant if he or she wishes to participate in the program. Admission to the program is not automatic, and the Judge retains the discretion to reject the proposed participation of any given defendant. If the Judge approves

the defendant's participation in the program, the defendant must at an arraignment or a pretrial hearing do all of the following:

1. Waive, in writing, his or her right to a trial and – if not represented by an attorney – the right to be represented by an attorney;
2. Agree, in writing, to pay the diversion program fee for supervision services associated with the diversion program, as well as any other court costs for the case; and
3. Enter a guilty plea to the charge or charges.

When the defendant enters a guilty plea, the prosecutor will agree at the same time that the defendant's case will be dismissed in **120** days, if the defendant completes all of the requirements of the diversion program. The court will then find the defendant guilty and will impose on the defendant an appropriate sentence for the charge or charges. Enforcement of that sentence will be stayed for **120** days.

Within **120** days after entering the plea, the defendant must:

1. Complete an alcohol-education or drug-education class, and attend a treatment program for alcohol or drug dependency, if directed to do so by the court's probation department;
2. Complete 20 hours of community service under the direction of the court's probation department;
3. Report to the probation department as scheduled, and notify the probation department about any address changes and any events that affect the participant's ability to complete the program;
4. Refrain from committing any other criminal offense or any drug related or alcohol-related traffic offense while participating in the program;

5. Submit to drug or alcohol testing whenever directed to do so by the probation department, and agree that any failure to submit to those tests or any illegal drug or alcohol use while in the program will result in the defendant's removal from the diversion program;

6. Pay the **\$225.00** supervision fee, pay the cost of the appropriate drug or alcohol class, pay the cost of any drug or alcohol assessment, pay the full amount of any restitution owed to any victims of the offense(s) and pay any court costs associated with the case.

Once the **120**-day period following the defendant's guilty plea has expired, the court will dismiss the case against the defendant, if the defendant has complied with the requirements of the program, or enforce the previously suspended sentence if the defendant has not complied with the requirements of the program. The court will hold a hearing prior to imposing the previously suspended sentence.

#### Rule 211: Diversion Program for Certain Theft and Unauthorized-Use Offenders

The court's diversion program for theft and unauthorized-use offenders is intended to provide a short period of supervision and education to those persons who have been charged with certain theft-related misdemeanor offenses and are willing to accept responsibility for their misconduct. The program is for first-time offenders. Those who successfully complete the program will not have a criminal conviction on their records. The goal of the diversion program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.

The program is open to first-time offenders (persons who have not already participated in a diversion program and who have not been convicted as an adult in this or other courts for any other criminal activity) whose pending misdemeanor charges are limited to any or all of the

following: (1) Theft under Section 2913.02 of the Revised Code or comparable municipal ordinances; (2) Unauthorized Use of Property under Section 2913.04 of the Revised Code or comparable municipal ordinances; (3) An attempt to commit either or both of those offenses under Section 2923.02 of the Revised Code or comparable municipal ordinances; or (4) Complicity in the commission of either or both of those offenses under Section 2923.03 of the Revised Code or comparable municipal ordinances.

The program is not available to any defendant who is accused of stealing or attempting to steal firearms or other weapons, used a firearm or other weapon in any way while committing the charged offense, or harmed or threatened to harm anyone while committing the charged offense.

If a defendant is eligible for the program, the Court will then ask the defendant if he or she wishes to participate in the program. Admission to the program is not automatic, and the Judge retains the discretion to reject the proposed participation of any given defendant. If the Judge approves the defendant's participation in the program, the defendant must at an arraignment or a pretrial hearing do all of the following:

1. Waive, in writing, his or her right to a trial and – if not represented by an attorney – the right to be represented by an attorney;
2. Agree, in writing, to pay the diversion program fee for supervision services associated with the diversion program, as well as any restitution owed to the alleged victim and any other court costs for the case; and
3. Enter a guilty plea to the charge or charges.

When the defendant enters a guilty plea, the prosecutor will agree at the same time that the defendant's case will be dismissed in **120** days, if the defendant completes all of the requirements of the diversion program. The court will then find the defendant guilty and will impose on the defendant an appropriate sentence for the charge or charges. Enforcement of that sentence will be stayed for **120** days.



Within **120** days after entering the plea, the defendant must:

1. Complete an appropriate theft-related education class, such as a class on the social and economic consequences of shoplifting and on effective ways to control the impulse to steal, and attend any additional theft-related or impulse-control treatment program if directed to do so by the court's probation department;
2. Complete 20 hours of community service under the direction of the court's probation department;
3. Report to the probation department as scheduled, and notify the probation department about any address changes and any events that affect the participant's ability to complete the program;
4. Refrain from committing any other criminal offense or any drug related or alcohol-related traffic offense while participating in the program;
5. Submit to drug or alcohol testing whenever directed to do so by the probation department, and agree that any failure to submit to those tests or any illegal drug or alcohol use while in the program will result in the defendant's removal from the diversion program;
6. Pay the **\$225.00** supervision fee, pay the cost of the appropriate theft-related class, pay the full amount of any restitution owed to any victims of the offense(s) and pay any court costs associated with the case;
7. Cooperate with the prosecutor in any criminal case against any codefendants, and testify honestly in any court hearings involving those persons.

Once the **120**-day period following the defendant's guilty plea has expired, the court will dismiss the case against the defendant, if the

defendant has complied with the requirements of the program, or enforce the previously suspended sentence if the defendant has not complied with the requirements of the program. The court will hold a hearing prior to imposing the previously suspended sentence.

#### Rule 212: Diversion Program for Domestic Violence Offenders

The court's diversion program for domestic violence offenders is intended to provide a short period of supervision and education to those persons who have been charged with domestic violence and are willing to accept responsibility for their misconduct. The program is for first-time offenders. Those who successfully complete the program will not have a criminal conviction on their records. The goal of the diversion program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.

The program is open to first-time offenders (persons who have not already participated in a diversion program and who have not been convicted as an adult in this or other courts for any other criminal activity) whose pending misdemeanor charges are limited to any or all of the following: (1) Domestic Violence under Section 2919.25 of the Revised Code or comparable municipal ordinances; or (2) An attempt to commit domestic violence under Section 2923.02 of the Revised Code or comparable municipal ordinances.

The program is not available to any defendant who is accused of criminal charges in addition to domestic violence as a result of causing, threatening or intending to cause serious physical harm to another person. The program is not available to any defendant who is accused of having a deadly weapon in his or her possession, or of having a weapon readily available at the time of the alleged offense(s), when the defendant either directly or indirectly threatened to use the weapon in the commission of the alleged offense(s).

If a defendant is eligible for the program, the Court will then ask the defendant if he or she wishes to participate in the program. Admission to the program is not automatic, and the Judge retains the discretion to reject the proposed participation of any given defendant. If the Judge approves

the defendant's participation in the program, the defendant must at an arraignment or a pretrial hearing do all of the following:

1. Waive, in writing, his or her right to a trial and – if not represented by an attorney – the right to be represented by an attorney;
2. Agree, in writing, to pay the diversion program fee for supervision services associated with the diversion program, as well as any restitution owed to the alleged victim and any other court costs for the case; and
3. Enter a guilty plea to the charge or charges.<sup>1</sup>

When the defendant enters a guilty plea, the prosecutor will agree at the same time that the defendant will be permitted to withdraw his or her guilty plea and that the defendant's case will be dismissed in **120** days, if the defendant completes all of the requirements of the diversion program. The court will then find the defendant guilty and will impose on the defendant an appropriate sentence for the charge or charges. Enforcement of that sentence will be stayed for **120** days.

Within **120** days after entering the plea, the defendant must:

1. Complete a domestic violence-related education class with TouchPointe Marriage and Family Resources, or other domestic violence-related education class as determined by the court's probation department;
2. Complete 20 hours of community service under the direction of the probation department;
3. Report to the probation department as scheduled, and notify the probation department about any address changes and any events that affect the participant's ability to complete the program;

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<sup>1</sup> Participants are advised that a guilty plea may enhance to a fourth degree felony any subsequent domestic violence offense, if a participant is terminated unsuccessfully from the diversion program.

4. Refrain from committing any other criminal offense or any drug-related or alcohol-related traffic offense while participating in the program;
5. If a temporary protection order or civil protection order has been issued by any court, refrain from committing any violation of any protection order while participating in the program;
6. Complete an alcohol and drug assessment at the Alcohol and Drug Freedom Center of Mount Vernon and Knox County, or other state licensed counselor or agency, if directed to do so by the probation department;
7. Participate in any alcohol or drug treatment or counseling, including recommended aftercare, and continue the treatment or counseling during the **120** day term of the diversion program, if directed to do so by the probation department;
8. Attend AA or NA meetings as directed by the probation department, and provide the probation department with written proof of attendance at the AA or NA meetings;
9. Complete a mental health assessment with Behavioral Healthcare Partners of Central Ohio, Inc. (“BHPCO”), or an equivalent state licensed agency or counselor, if directed to do so by the probation department, and comply with all recommendations for treatment or counseling during the **120** day term of the diversion program;
10. Take all medications as lawfully prescribed, if directed to do so by the probation department; and
11. Pay the **\$225.00** supervision fee, pay the cost of the appropriate domestic violence-related class, pay the cost of any additional class, program or counseling if directed to do so by the probation department, pay the full amount of any restitution owed to any victim(s) of the offense(s) and pay any court costs associated with the case.

If no protection order has been issued by any court, alleged victims may but are not required to participate with defendants in any domestic violence-related education class, program or counseling. Alleged victims are encouraged to participate in any class, program or counseling offered by New Directions, the Domestic Abuse Shelter of Knox County.

Once the **120**-day period following the defendant's guilty plea has expired, if the defendant has complied with the requirements of the program, the defendant will be permitted to withdraw the guilty plea and the Court will dismiss the case against the defendant. If the defendant has failed to comply with the requirements of the program, the previously suspended sentence will be imposed. The court will hold a hearing prior to imposing the previously suspended sentence.

Rule 213: Mandated Education and Referral Into Treatment ("MERIT") and Mandated Education and Referral Into Treatment—Vivitrol ("MERIT-V") Drug Court.

(A) Establishment of the Drug Court Docket.

There is hereby established the MERIT/MERIT-V Drug Court effective April 22, 2016. The mission statement of the MERIT/MERIT-V Drug Court Program is: Improving the quality of life in Knox County by providing a Court-supervised substance abuse program; holding offenders accountable for their past while giving them a chance to become contributing members of their community in the future; reducing the public's costs associated with drug and alcohol related crimes; and enhancing public safety by reducing future crime.

In the MERIT-V Drug Court program participants are required to abstain from the use of Heroin and other opiates for a period of at least 10 days and undergo a medical examination before taking Vivitrol. MERIT-V Drug Court program participants are required to be on the Vivitrol injection for the duration of the program. Participants will start on the oral form of Vivitrol for up to two weeks before taking the first Vivitrol injection. Injections are given every 28 days. Refusal to take Vivitrol, whether orally or by injection, will automatically disqualify an applicant from participation in the MERIT-V Drug Court program, or result in termination from the program.

(B) Placement in the Drug Court Docket.

The MERIT/MERIT-V Drug Court program will serve defendants using the following eligibility criteria:

- Any post-conviction offender, including offenders who have been unsuccessfully terminated from Intervention In Lieu of Conviction (ILC) or who are pending revocation of their community control supervision, where alcohol and/or drug use was directly or indirectly related to the offense or offenses committed
- Participants must be residents of Knox County, Ohio
- Participants must be assessed and diagnosed as chemically dependent persons by an approved alcohol and drug treatment provider
- Utilizing the Ohio Risk Assessment System (ORAS) scores, participants will be “high” or “moderate to high” risks to re-offend
- Participants must be mentally competent and possess the developmental capacity to understand and adhere to the participation requirements.

In order to have his/her case placed on the MERIT/MERIT-V Drug Court, a defendant shall be referred to the Program Coordinator and shall meet certain clinical and legal criteria more completely outlined in the MERIT/MERIT-V Drug Court Program Description Handbook, including:

- Prior to admission into the specialized docket, candidates for the program must complete an alcohol and drug assessment through the Freedom Center, 106 East Gambier Street, Mount Vernon, Ohio 43050, or other appropriately licensed treatment provider
- Incarcerated candidates will be assessed by the Freedom Center, or other appropriately licensed treatment provider at the Knox County Jail
- Participants must have a substance dependence and the developmental capacity to understand and adhere to the participation requirements of the program
- Using ORAS scores, participants will be “high” to “moderate to high” risks to re-offend
- Individuals with a coinciding or contemporaneous felony offense for which a prison term is mandatory are ineligible
- Individuals actively working as law enforcement informants are ineligible

- Persons who are mentally incompetent or have a mental health disorder preventing or interfering with their ability to successfully complete the program are ineligible
- Individuals who are determined to be an integral part of a drug distribution or manufacturing network, or who are actively engaged in crimes benefitting a gang are ineligible
- Offenders residing outside of Knox County, Ohio are ineligible.

All referrals into the MERIT/MERIT-V Drug Court are given to the Program Coordinator. Once an applicant's eligibility is determined, the referral source will be notified. If it is determined that an applicant is eligible to enter the Drug Court program, the Judge will make the final admission determination and order incorporation of Drug Court Program participation as a term and condition of probation/community control supervision.

The Judge, court staff, defense counsel, prosecutors, probation officers and counseling staff refer candidates to the Program Coordinator who screens all cases. Prior to admission, the Program Coordinator will meet with candidates to perform a social history screening of substance abuse, psycho-social, and criminal history. The Program Coordinator will also perform the ORAS in compliance with Ohio mandates to determine level of risk and appropriateness of level of supervision based on risk. Collateral information outside of the interview will be collected such as criminal files, involvement with other agencies, CCH/LEADS, and speaking with family members, probation officers, and other individuals previously involved with the probationer. After reviewing this information and speaking with the candidate, the Program Coordinator will schedule a diagnostic assessment at The Freedom Center within 24 hours to determine clinical eligibility. After a determination is made that a candidate is both legally and clinically eligible, the Program Coordinator will present all information to the Drug Court Treatment Team (Judge, Probation Officer, Coordinator, and Counselors) to discuss the defendant's case regarding defendant's entry into drug court. An individual is screened for entry into the program and, if eligible, enters into the program the following Friday after their screening. The MERIT/MERIT-V Drug Court takes only "high" to "moderate to high" risk individuals identified by ORAS recognizing the need for these individuals to be closely monitored and those individuals identified as "low" to "moderate" risk need a lower level of supervision.

The Drug Court Program Coordinator provides pre-screening and assessments for eligibility for Drug Court. Pre-screening is done by running OHLEG through the Ohio Attorney General's website to determine if the offender has any significant history of violence or drug trafficking, which would disqualify applicant from entering the program. Prescreening also includes determining the applicant's previous level of compliance while on probation and also a check with local law enforcement to determine if the individual has a history of drug trafficking that has not resulted in a conviction. Once potential eligibility has been determined through prescreening, an assessment is scheduled with the individual to sign appropriate releases, participation agreements, and obtain a social history. If the participant is eligible and agrees to participate, a clinical assessment is scheduled with the counselor from The Freedom Center to determine clinical eligibility (to ensure the participant is clinically appropriate and possesses no mental health issues which would prevent their success in the program). If an applicant is determined legally and clinically eligible for the program, the participant is granted entry into the program.

Drug Court will also allow a participant to enter the program directly from the sentencing stage of their case. If a participant is deemed an eligible candidate (legally and clinically) prior to sentencing, the recommendation will be made to the Judge, upon agreement with the prosecutor, defense counsel, drug court staff, and the participant that the defendant be sentenced into drug court directly from sentencing.

In compliance with the Health Insurance Portability and Accountability Act of 1996, all participants are required to sign a release of information prior to their assessment. This release includes drug court treatment team members, mental health agencies, law enforcement, prosecution, defense counsel, drug testing services, Mental Health and Recovery Board, and any friends and family members that the participant specifically identifies.

The primary reward for successful completion of the program is termination of the court proceedings for cases on which the participant enters the program, clinical stability and freedom from drugs and incarceration. The ultimate sanction for non-compliance is termination from the program, resulting in serving significant jail time.



### (C) Case Management in Multi-Judge Courts.

Judge John C. Thatcher will operate the MERIT/MERIT-V Drug Court.

### (D) Drug Court Case Management.

The MERIT/MERIT-V Drug Court program is designed to effectively provide services to up to 24 participants in various phases of the program. The Advisory Committee, on an ongoing basis, will review the program's capacity to provide services to up to 24 participants, and whether there is a need to expand the program's capacity to serve more than 24 participants.

Detailed descriptions and outlines of program expectations, processes, treatment team and advisory board members and duties are listed in the Drug Court Program Description and the Participant Handbook.

### (E) Termination from the Drug Court Docket.

#### Termination Classifications:

1. Successful—An offender is classified as a successful termination when he/she has met the probation requirements of drug court, completed all community service hours required, paid court fines, and graduated from drug court.
2. Neutral—these include terminations of the following:
  - a. Death—an offender has died while participating in the program.
  - b. Transfer—An offender is classified as a transfer and discharged from the program when, after a period of time spent in drug court, it is determined that an undiagnosed mental health issue is predominant, and the participant is mentally incapable of completing the program. The offender is then placed on a different level of community control.
3. Termination—An offender is terminated from the program for non-compliance with program requirements. The treatment team will make termination recommendations to the Judge, and the Judge will make final decisions concerning termination from the program.

The operation of the MERIT/MERIT-V Drug Court Program shall be in accordance with the MERIT/MERIT-V Drug Court Program Description and Participant Handbook, which may be amended from time to time.

## **Rules Unique to Civil Cases**

### Rule 301: Extensions of Time; Responses to Motions

Agreed motions for extensions of time with proposed entries are permitted.

Unless the court sets a different deadline, any response to a motion for summary judgment must be filed within 28 days after the filing of the motion. Responses to any other type of motion must be filed within 14 days after the motion is filed, unless a longer time period is granted by the court or is permitted by the Ohio Rules of Civil Procedure. A movant's reply to a response to any written motion may be served within seven days after service of the response to the motion.

### Rule 302: Trial Exhibits; Requests for Jury Views

The parties should bring to any pretrial conferences all of the exhibits that they hope to offer into evidence at the trial.

Any party requesting a jury view should notify the court and all other parties about that request at least 21 days before the trial date.

### Rule 303: Trial Briefs

Trial briefs and proposed jury instructions should be filed by each party at least seven days before a scheduled jury trial. Trial briefs shall set forth the following information:

1. A brief statement of the issues of fact;

2. A brief statement of the issues of law;
3. An Exhibit List (Plaintiff's Exhibits are numbered; Defendant's Exhibits are lettered);
4. An Expert Witness List, if applicable;
5. A list of lay witnesses;
6. A brief statement as to anything else ordered by the court either at the pre-trial, or after the pre-trial;
7. A brief statement about anything else unique to the case to be tried, if applicable.

Parties are also encouraged to file trial briefs in non-jury cases if the parties feel that those briefs would be helpful to the court in resolving any disputed factual or legal issues in the case.

#### Rule 304: Complaints in Forcible Entry and Detainer Cases

Only the deeded property owner can sign and file a Complaint in Forcible Entry and Detainer without an attorney. All other Complaints must be signed and filed by an attorney on behalf of the owner or property management company. Corporations, Limited Liability Companies (LLCs), and Trusts must be represented by an attorney at all stages of the eviction process, including filing the Complaint seeking eviction and appearing in Court. A person is not permitted to use a power of attorney to represent another person in Court. A complaint seeking the eviction of a tenant or resident must contain a reason for the requested eviction. A copy of the notice to leave premises required by Section 1923.04 of the Ohio Revised Code must be attached to the complaint, as must a copy of the written instrument (lease, etc.) if any, upon which the eviction claim is founded. The Court requires two copies of the complaint for each defendant, plus one copy of the complaint for the Court.

### Rule 305: Small Claims

A small claims action may be commenced by filing a complaint in accordance with Section 1925.04 of the Ohio Revised Code. The clerk's office cannot provide legal advice.

A defendant is not required to file an answer or a statement of defense. A timely counterclaim or cross claim may be filed. All pleadings will be construed to accomplish substantial justice. If a defendant fails to appear for a hearing, a judgment may be entered against the defendant.

### Rule 306: Service by Commercial Carrier Service

In civil cases, the Clerk of the Mount Vernon Municipal Court shall utilize service of process methods as outlined in Ohio Civil Rule 4.1(A)(1)(b) Service by commercial carrier service using the specific service that the Clerk deems most effective for the purpose.

## **Rules for the Public and Parties Concerning the Court Building and the Recording of Court Proceedings**

### Rule 401: Hours of Operation; Holidays

The court and clerk of court's office are open to the public each weekday from 8:00 a.m. until 4:00 p.m. Those offices are closed on New Year's Day, Martin Luther King Day, Presidents Day, Memorial Day,

Independence Day, Labor Day, Veterans Day, Thanksgiving and the day after Thanksgiving, Christmas Eve and Christmas.

#### Rule 402: Weapons in the Court Building

Law enforcement officers who enter the court building and who are acting within the scope of their employment while at the court may carry their weapons, but law enforcement officers who visit the court outside the scope of their employment – whether as parties to court cases or as interested observers – are not permitted to carry weapons.

No other weapons are permitted at the court other than those carried by court security officers or probation officers.

#### Rule 403: Proper Conduct in the Courtroom

Cell phones and other electronic devices should be silenced in the courtroom. Food is not permitted in the courtroom. Respectful attire should be worn in the courtroom, and the judge, bailiff or court security officer may instruct any person wearing inappropriate clothing to leave the courtroom.

Any person seated in the first four rows on the right side of the courtroom (from the Judge's perspective) shall remain seated throughout the court's proceedings. Any person standing in the rear of the courtroom shall not obstruct the view of any other person in the courtroom.

#### Rule 404: Conduct of the Media in the Courtroom

Members of the media shall remain behind the bar at all times. Cameras mounted on tripods, etc., shall be placed in the rear of the Courtroom with all microphones, wiring, etc., situated in a manner that is unobtrusive and does not create a tripping hazard to any other person in the courtroom. Artificial lighting is not permitted.

Interviews inside the Courtroom are not permitted. Audio recordings are not permitted of conferences conducted between attorneys and their clients, co-counsel, opposing counsel or conferences at the bench. Filming, photographing, and audio recording of victims in the courtroom is prohibited.

#### Rule 405: Recordings of Court Proceedings; Transcripts

All proceedings are recorded using the court's audio equipment. Copies of those recordings can be made by the court for parties or the public. The fee specified in the court's cost schedule will be charged for those copies.

Parties or others who wish to create a typewritten transcript of Court proceedings must retain the services of a court reporter. Court reporters are permitted to transcribe a particular hearing as it occurs in the courtroom, or they may listen to the audio recording of a particular hearing after the hearing has taken place. All costs associated with court reporter services must be borne by the party employing the court reporter.

Transcripts will be provided at no cost to the Knox County Public Defender, Knox County Prosecutor and the Mount Vernon City Law Director.

The court reporter will request an extension of time from the court, if the transcript cannot be prepared by the date requested. For cases on appeal, the court will not grant an extension beyond the eightieth day after the filing of the notice of appeal. If a transcript cannot be prepared within the extension of time granted by the court, at least five days prior to the expiration of the extension the court reporter will notify the requesting party that it is their responsibility to request additional time from the Fifth District Court of Appeals to complete the transcript.

## **Rules for the Administration of the Court**

### **Rule 501: The Clerk May Collect Delinquent Fines and Costs with the Assistance of a Private Collection Agency**

The clerk of the court is authorized to contract with an outside service provider for the collection of delinquent fines and court costs. Any person or entity that does not pay fines and costs by a deadline that the court has set may be charged additional court costs in connection with that debt-collection process.

### **Rule 502: The Clerk May Transfer Out-of-County Criminal and Traffic Cases**

The clerk of the court is authorized to transfer a criminal or traffic case to the proper municipal court if the charging instrument indicates that the alleged offense occurred in another county, and that transfer may be effected without a judicial order or a motion from the prosecutor.

### **Rule 503: Maintenance and Destruction of Records**

The Rules of Superintendence for the Courts of Ohio list time periods during which court records and other documents must be maintained. Once the minimum time period for the maintenance of a record or other document has passed, the clerk of the court may destroy that record or document without further order from the court.

The indexes, dockets, case files and journals of the court shall be maintained in an electronic medium. These records shall be retained for 25 years and backups of the records shall be maintained.

All other records shall be maintained according to the following retention schedule:

A. Administrative Records.

1. Administrative Journal. Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.
2. Annual Reports. Two copies of each annual report shall be retained permanently.
3. Bank Records. Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
4. Cash Books. Cash books, including expense and receipts ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
5. Communication Records. Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.
6. Correspondence and General Office Records. Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.
7. Drafts and Informal Notes. Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.
8. Employed Applications for Posted Positions. Employment applications for posted or advertised positions shall be retained for two years.



9. Employee Benefit and Leave Records. Employee benefit and leave records will be retained by the appropriate fiscal officer.
10. Employee History and Discipline Records. Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination and retirement of court employees shall be retained for ten years after termination of employment.
11. Fiscal Records. Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
12. Judge, Acting Judge, and Clerk Notes, Drafts, and Research. Judge, Acting Judges, and Clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case filed, retained in the case file, or destroyed at the discretion of the preparer.
13. Payroll Records. Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
14. Publications Received. Publications received by the court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.
15. Receipt Records. Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
16. Jury Management Records. Yearly jury venire shall be retained for three years after the expiration of the jury term.
17. Court Surveillance Video shall be retained for 28 days.

## B. Financial Records

1. Auditor Reports. Auditor reports shall be retained by another office or agency.
2. Monetary Records. Monetary records (Criminal/Traffic, Bond, Civil, Small Claims), bank statements shall be retained for three years after the issuance of an audit report by the Auditor of State.
3. Rental Escrow Account Records. Rental escrow account records shall be retained for five years after the last date of deposit with the Court.
4. Trustee Account Records. Trustee account records shall be retained for five years after the last date of disbursement to Creditor by the Trustee.
5. Yearly Reports. Yearly reports shall be retained permanently.

## C. Case Files

1. Civil Case Files. Civil case files shall be retained in an electronic medium for 15 years after the date of the final order of the Court.
2. OVI Case Files. Operating a vehicle under the influence (“OVI”) case files shall be retained for 50 years after the date of the final order of the Court.
3. First through Fourth Degree Misdemeanor Traffic Case Files. Except for OVI case files, first through fourth degree misdemeanor traffic files shall be retained for 25 years after the date of the final order of the Court or one year after the issuance of an audit report by the Auditor of State, whichever is later.
4. First Through Fourth Degree Misdemeanor Criminal Case Files. First through fourth degree misdemeanor criminal case files shall be retained for 50 years after the date of the final order of the

Court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

5. Minor Misdemeanor Traffic and Minor Misdemeanor Criminal Case Files. Minor misdemeanor traffic and minor misdemeanor criminal case files shall be retained for five years after the final order of the Court or one year after the issuance of an audit report by the Auditor of State, whichever is later.
6. Search Warrant Records. Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

D. Exhibits, Depositions, and Transcripts.

All exhibits, depositions and transcripts, at the conclusion of litigation, including times for direct appeal, may be destroyed by the Court or the custodian of the exhibits, depositions, or transcripts, if all of the following conditions are satisfied:

1. The Court notified the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within 60 days from the date of the written notification;
2. The written notification informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within 60 days of the written notification;
3. The written notification informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;
4. The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within 60 days from the date of the written notification.

## Rule 504: Jury Management Plan

This court adheres to the Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio in August 1993.

The opportunity to serve on a jury at the court will not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or disability.

Persons who are summoned for jury service will be paid the daily rate that is set by the Knox County Commissioners. All compensation payable to a juror or potential juror is paid after that person's term of jury service has ended. Persons summoned for jury service are not compensated for their travel expenses.

Typically, jury service will last for one month, and prospective jurors are required to call the court on selected days during that month to learn whether or not they are needed for jury service the following morning. For most jury trials at the court, 60 persons will be summoned for jury service.

Eligible persons who are summoned for jury service may be excused from that service only if the judge determines that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or if the judge or a court official determines that their service on a jury would impose a continuing hardship on them or on members of the public. Persons seeking a deferral (a delay) of their jury service or who wish to be excused entirely from jury service should present their requests to the court in writing, together with any additional documents that support the request. Those requests and the supporting documents will be retained by the court for two years. Unless the judge or court official grants a requested deferral or excuse, a person summoned for jury service must report for that service as directed by the court.

Deferrals of jury service or excuses from jury service may be warranted for:

1. Any person who suffers from a substantial physiological or psychological impairment;

2. Any person who has a scheduled vacation or business trip during a time of potential jury service;
3. Any person for whom jury service would constitute a substantial economic or personal hardship;
4. Any person who has served on a jury within the past year.

Jury questionnaires shall be submitted to potential jurors and copies should be available for any party or their counsel one week prior to trial.