

DRAFT
SIXTH DISTRICT BENCH BAR MEETING
Criminal Bench Bar Subcommittee
May 21, 2010
Courtroom 301

Present: J Dunn, J Box, J Laggis, Dave Martinez, Warren Webber, Steve Muhonen, Steve Herzog, Ian Johnson, Suzanne Johnson

1. Welcome – Judge Dunn and Judge Box

Members:

Judge Dunn	stephend@bannockcounty.us	236-7250
Judge Box	gaylenb@bannockcounty.us	236-7255
Judge Carnaroli	rickc@bannockcounty.us	236-7322
Judge Laggis	plaggis@co.power.id.us	226-7619
Dave Martinez	davidm@bannockcounty.us	236-7043
Vic Pearson	vicp@bannockcounty.us	236-7280
Warren Webber	wcwebberlaw@gmail.com	233-7400
Steve Muhonen	sjm@racinelaw.net	232-6101
Steve Herzog	sherzog@pocatello.us	234-6148
Suzanne Johnson, Secretary	suzyj@bannockcounty.us	236-7071

2. Defendants entering a plea under oath – It is the consensus of the Criminal Bench Bar subcommittee that the district judges not require defendants to be placed under oath when entering a plea.
3. Criminal Bench Bar meetings changed from quarterly to every six months – Judge Dunn and Judge Box a. Next Criminal Bench Bar subcommittee meeting will be Friday, November 19, 2010
3. Method to handle misdemeanor case that is tied to felony charge – Judge Laggis:

“I have a question that arises from a reporting issue on my class report. I have substantial time compliance issues with misdemeanors that are tied to a felony charge. The practice is that when a felony moves up to district court then we have been setting the misdemeanors for a pre-trial conference on the same day that district court conducts felony hearing. The theory is/was that as the cases are resolved or tried then the misdemeanors can be concluded also. More times than not, they are dismissed when the defendant enters a plea on the felony. Rarely do I get them back.

The problem is when felonies linger, then the misdemeanors approach or pass time standards.

Are there any thoughts on efficiently managing the misdemeanor cases?”

Action item: Litigants may stipulate to a conditional dismissal of the misdemeanor pending the outcome of a felony case. At the time the felony is dispositioned, the deputy clerks for the district judges shall send a copy of the sentencing to the prosecution and defense of the misdemeanor case so they can determine whether or not to refile the misdemeanor charges. Suzanne will work with Cindy Haney to determine protocol for this process in Bannock County. The subcommittee suggests that the easiest way is to put a sticker on the felony case where notations can be made of the misdemeanor case numbers that are following the felony cases. The stickers will alert deputy clerks of the need to send copies of the sentencing order to the attorneys who are assigned to the misdemeanor cases.

4 . Other items for discussion?

- a . Criminal case procedural issues that have solutions –

Action Item: Whenever members of the committee run into procedural problems that results in a solution, please write them down and send them to Suzanne. She will accumulate them for the next Criminal Bench Bar subcommittee meeting for reference. J Laggis would like to know what is going on and when possible, the solutions can provide consistency throughout the district.

- b. Attorneys who are ‘fired’ by clients who have legal philosophies differing from state laws - *Attorneys are prohibited by the code of professional responsibility from making legal arguments that have no basis in the law or by a reasonable extension of existing law. Attorneys are the ones that make the decision what arguments to present. If the client insists the attorney make legal argument not supported by existing law, the public defender may be allowed to withdraw. The defendant must then either hire his own attorney, or represent himself.*
- c. *If the judge thinks the defendant lacks the ability to proceed he orders a mental evaluation under I. C. 18-211.*