

Serial: 147465

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99025-SCT

*IN RE: UNIFORM RULES OF CIRCUIT
AND COUNTY COURT PRACTICE*

ORDER

This matter is before the Court on the Court's own motion to amend Rule 8.01 of the Uniform Rules of Circuit and County Court Practice. After due consideration, the Court finds the amendment will promote the fair and efficient administration of justice and Rule 8.01 should be so amended.

IT IS THEREFORE ORDERED that Rule 8.01 of the Uniform Rules of Circuit and County Court Practice is hereby amended as set forth in Exhibit A. The amendment will become effective on July 1, 2008.

IT IS FURTHER ORDERED that the Clerk of the Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy to West Publishing for publication in the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 13th day of May, 2008.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., PRESIDING JUSTICE
FOR THE COURT

EASLEY, J., OBJECTS WITH SEPARATE WRITTEN OBJECTION.

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EASLEY, JUSTICE, SEPARATE WRITTEN OBJECTION:

I object to the amendment to Rule 8.01 of the Uniform Rules of Circuit and County Court Practice regarding arraignments. While the amendment attempts to track the language of Mississippi Code Annotated Section 99-17-1, there exists the potential for an abuse of the amendment. The rights of criminal defendants are forever expanding while the rights of victims are ignored by the majority of this Court.

The amendment to the rule specifically requires that, “Within sixty (60) days of arraignment (or waiver thereof), the court shall enter an order setting a date for trial.” Our circuit court system has a variety of serious challenges, which include: (1) overcrowded dockets due to an insufficient number of trial court judges and courtrooms, (2) time constraints due to the limited number of circuit court terms in most of the State’s counties, and (3) a vast number of felony cases pending on the court dockets. In addition, the majority of the Supreme Court is ignoring the fact that most circuit court judges travel a multi-county circuit, thus, the name “circuit courts.” Do these difficulties in our circuit court system qualify as “good cause” reasons to enter an order of continuance without bogging down the court system with needless hearings and interlocutory appeals to this Court on these basic grounds for a continuance?

Misunderstanding or inappropriate application of this generalized amendment to the rule could result in the vast dismissal of a large number of old, pending felony and

misdemeanor criminal cases based on a technicality. In my opinion, that would be an injustice to the citizens of Mississippi. The best guardian of the trial schedule is the trial judge. At some point reality must prevail.

Exhibit A

UNIFORM RULES OF CIRCUIT AND COUNTY COURT PRACTICE

**Rule 8.01
ARRAIGNMENT**

Arraignment, unless waived by the defendant, shall be held within thirty (30) days after the defendant is served with the indictment. At or within sixty (60) days of arraignment (or waiver thereof), the court shall enter an order setting a date for trial. Unless good cause be shown, and a continuance granted by written order setting forth the reason for the continuance, an accused shall be brought to trial no later than two hundred seventy (270) days following arraignment (or waiver thereof).

Arraignment ~~will~~ shall be held in open court, and ~~will~~ consist of (i) reading the indictment to the accused; ~~and, (ii) and~~ calling upon the defendant to plead to the charge in the indictment. Prior to arraignment a copy of the indictment ~~must~~ shall be served on the defendant. Defendants who are jointly charged may be arraigned separately or jointly within the discretion of the court. If codefendants are arraigned at the same time and charged with the same offense, the indictments need be read only once, with stated identification of each defendant.

In all cases waiver of the reading of the indictment may be permitted if the defendant is represented by an attorney. Arraignment is deemed waived ~~where~~ when the defendant proceeds to trial without objection.

[Adopted effective May 1, 1995; Amended effective July 1, 2008, to provide that the matter shall be set for trial at or within 60 days of arraignment. Effective as to all arraignments on and after July 1, 2008.]