

JUSTICE COURT OF RECORD
CRIMINAL DIVISION
YELLOWSTONE COUNTY, MONTANA
BEFORE JUDGE _____

STATE OF MONTANA
PLAINTIFF
VS
_____,
DEFENDANT

Case No.: _____

MEMORANDUM OMNIBUS HEARING

Aliases:

CHARGES: _____

In compliance with §46-13-110, MCA the parties submit this memorandum to the court and state as follows:

1. An omnibus hearing was held on the date subscribed below.
2. The parties discussed pretrial matters appropriate to the pending case, including, but not limited to, the items set forth in §46-13-110, MCA, a copy attached hereto as exhibit "A".
3. The parties will make a demand for a jury trial within 20 days of this memorandum to allow the court sufficient time to call a jury or reset the trial date. The parties stipulate that failure to demand a jury trial within 20 days subsequent to the entry of the omnibus memorandum is a waiver of the jury.
4. The State has an open file policy and all files concerning this case are open to the Defendant for inspection.
5. All motions will be made in writing under the Rule 9 Local Rules of Practice of the Justice Court of Yellowstone County.
6. The State moves:

[File with the court within 5 days a supporting brief and an answer brief within 10 days, Rule 6, UJCCR.]

7.The Defendant moves:

[File with the court within 5 days a supporting brief and an answer brief within 10 days, Rule 6, UJCCR.]

8.In the interest of justice, upon a guilty plea by the Defendant, the State will recommend to the court the following:

The State’s plea offer will be considered withdrawn if not accepted within 15 days.

9.The parties stipulate that the court has jurisdiction over the subject matter.

10.The parties further stipulate:

Pursuant to Local Rule 10(6) the parties waive a formal omnibus hearing. If represented by counsel, Defendant’s written acknowledgement and waiver are filed.

The State and Defendant have reviewed this memorandum and stipulate to its entry by the court.

Dated: _____

Dated: _____

Deputy County Attorney

Defendant

Defense Counsel

TO BE COMPLETED BY THE COURT

Omnibus held on _____

- Defendant did not appear as ordered
- Defendant filed a Local Rule 10(6) waiver.
- Defendant’s failure to appear as ordered effected a waiver of right to a jury trial

ENTRY SO ORDERED.

Dated: _____

JUDGE

Cc: County Attorney
Defendant
Defendant’s Attorney

OMNIBUS HEARING
EXHIBIT "A"

46-13-110. Omnibus hearing. (1) Within a reasonable time following the entry of a not guilty plea but not less than 30 days before trial, the court shall hold an omnibus hearing.

(2) The purpose of the hearing is to expedite the procedures leading up to the trial of the Defendant.

(3) The presence of the Defendant is not required. The prosecutor and the Defendant's counsel shall attend the hearing and must be prepared to discuss any pretrial matter appropriate to the case, including but not limited to:

(a) joinder and severance of offenses or Defendants, 46-11-404, 46-13-210, and 46-13-211;
 (b) double jeopardy, 46-11-410, 46-11-503, and 46-11-504;
 (c) the need for exclusion of the public and for sealing records of any pretrial proceedings, 46-11-701;

(d) notification of the existence of a plea agreement, 46-12-211;
 (e) disclosure and discovery motions, Title 46, chapter 15, part 3;
 (f) notice of reliance on certain defenses, 46-15-323;
 (g) notice of seeking persistent felony offender status, 46-13-108;
 (h) notice of other crimes, wrongs, or acts, 46-13-109;
 (i) motion to suppress, 46-13-301 and 46-13-302;
 (j) motion to dismiss, 46-13-401 and 46-13-402;
 (k) motion for change of place of trial, 46-13-203 through 46-13-205;
 (l) reasonableness of bail, Title 46, chapter 9; and
 (m) stipulations.

(4) At the conclusion of the hearing, a court-approved memorandum of the matters settled must be signed by the court and counsel and filed with the court.

(5) Any motions made pursuant to subsections (1) through (3) may be ruled on by the court at the time of the hearing, where appropriate, or may be scheduled for briefing and further hearing as the court considers necessary.

Local Rule 9 MOTIONS

- (1) Pre-trial motions. Except for good cause shown, all pretrial motions must be made in writing as provided for under §46-13-101, MCA and Rule 6, U.J.C.C.R., at or before the omnibus hearing. Failure to raise defenses or objections or to make required requests prior to trial constitutes a waiver of the defense, objection, or request, except a motion for lack of jurisdiction or failure to state an offense is nonwaivable.
- (2) Motion for new trial – Amendment of Judgment. Rule 59, M.R.Civ.P. shall apply to all motions for a new trial or amendment of judgments.
- (3) Motion for relief from judgment or order. Rule 60, M.R.Civ.P. shall apply to all motions for relief from judgment or order. A motion for relief from judgment must be made within 30 days after entry of judgment as provided for under Rule 22, J.C.C.R. Civ.P.
- (4) Conflict. In the event of conflict the Montana Rules of Civil Procedure shall control.

Rule 6, U.J.C.C.R. Motions.

(a) All motions or application for orders in civil or criminal cases must be made in writing as required by Rule 9 of the Montana Justice and City Court Rules of Civil Procedure. This rule does not apply to motions made during the progress of a trial.

(b) At the time of filing the motion, there shall be filed supporting affidavits or documents, if referred to in the motion or notice of motion.

(c) Failure to file briefs may subject the motion to summary ruling. Failure to file a brief within five days by the moving party shall be deemed an admission that the motion is without merit. Failure to file an answer brief by the adverse party within ten days shall be deemed an admission that the motion is well taken. Reply briefs are optional and failure to file will not subject a motion to summary ruling.

(d) The court may order oral argument on the motion.

(e) Unless oral argument is ordered, or unless the time is enlarged by the court, the motion is deemed submitted at the expiration of the applicable time limits.

(f) The requirement of a brief is fulfilled by a written statement or summary setting forth the facts and basis of the motion. The brief may be made a part of or attached to the motion.