

FILED
Clerk of the Superior Court

OCT 13 2020

By: A. Cabrales

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

**IN RE: APPOINTMENT OF COUNSEL IN) GENERAL ORDER OF THE
OUT-OF-CUSTODY, PRE-ARRAIGNMENT) PRESIDING DEPARTMENT
CRIMINAL CASES) ORDER NO. 101320-96**

This Order is made pursuant to California Rules of Court, rule 10.603, which vests in the Presiding Judge the responsibility of promoting access to justice for all members of the public, establishing policies, and providing a forum for the fair and expeditious resolution of disputes, and Penal Code section 987.2.

Due to the health and safety concerns caused by the COVID-19 pandemic, the court ceased all but the most essential functions from March 17, 2020, through May 22, 2020, inclusive. (See e.g., San Diego Superior Court, General Orders of the Presiding Department, Order Nos. 031820-34, 040320-39, and 043020-47.) The resumption of services has been a slow and incremental process, taking into consideration, among other things, the rights of defendants in criminal cases, as well as the safety of all persons entering the courthouse, including litigants,

1 court staff, judicial officers, and Sheriff's deputies. In criminal cases, priority has been given to
2 the cases of those defendants who remain in custody.

3 The court is cognizant of the pressure the court "shutdown" and incremental resumption
4 of services has placed on the timely disposition of criminal cases in which the defendants are out
5 of custody. There is a large number of such cases that have not yet been brought before the court
6 for an initial arraignment.

7 Appointing counsel in these out-of-custody, pre-arraignment cases will help reduce
8 further delays, and will facilitate a more efficient and expeditious handling of cases by allowing
9 the parties to proceed with providing and reviewing discovery, and engaging in negotiations for
10 possible early disposition of the cases. In addition, appointing counsel in these cases
11 substantially benefits the defendants by giving many of them access to a lawyer without having
12 to wait until the arraignment to speak to one.

13 Based on the above, this court hereby orders:

- 14 1. In any criminal case that has been filed but the defendant has not yet appeared for
15 initial arraignment, and the defendant is out of custody, the San Diego Office of the
16 Primary Public Defender ("PD") is appointed to represent the defendant. The PD is
17 to screen the cases for any conflicts and refer cases in which there is a conflict to
18 either the Alternate Public Defender's Office ("APD"), Multiple Conflicts Office
19 (MCO), or the Office of Assigned Counsel ("OAC"), as appropriate. If a case is
20 referred to the APD, MCO, or OAC, that office is appointed to represent the
21 defendant.
- 22 2. The appointed agency is to notify the defendant as expeditiously as possible of the
23 appointment, and of the defendant's option to decline the appointment and proceed
24 with retained counsel or in propria persona ("in pro per"). If the defendant notifies
25 the appointed agency that he or she has retained counsel, or if the defendant declines
26 appointment, the appointed agency is relieved of its appointment.
- 27 3. Any appointment of counsel pursuant to this order is temporary pending the
28 defendant's initial arraignment or first court appearance. At that initial arraignment

1 or first court appearance, the appointment will either be confirmed or discontinued.
2 Accepting or declining appointment prior to this first court appearance does not affect
3 any rights regarding representation the defendant would otherwise have.
4

5 THIS ORDER IS EFFECTIVE IMMEDIATELY, AND WILL REMAIN IN EFFECT
6 UNTIL OTHERWISE ORDERED BY THE PRESIDING JUDGE.
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8 IT IS SO ORDERED.
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10 DATED: October 13, 2020



11 HON. LORNA A. ALKSNE
12 PRESIDING JUDGE
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