

Rule No. 41 – Representation of Indigent Defendants/Court Appointments

(A) Misdemeanor Appointments

(1) The Summit County Legal Defender Office is designated to provide the legal representation for an indigent charged with a criminal or traffic misdemeanor, other than a minor misdemeanor. Any such individual found by the Court to be in need of an attorney and entitled to such services may be considered for an appointment of the Legal Defender. Payment for the services of the Summit County Legal Defender Office shall be from Summit County and/or other governmental bodies contracting with it.

(2) In cases where there the Legal Defender's Office identifies to the Court a conflict of interest in representing that person, an attorney shall be appointed and paid as provided herein.

(3) When a felony is reduced to a misdemeanor , or otherwise remanded back to the Municipal Court, a practicing attorney previously appointed as provided herein may continue with such representation and be paid as provided herein.

(4) When other exceptional circumstances exist, and for good cause, the Presiding Judge may appoint a practicing attorney in a misdemeanor case, and the attorney shall be paid as provided herein.

(B) Appointment List

(1) The Court, through the Akron Bar Association, shall maintain a list of attorneys in private practice who are willing to accept appointments for cases identified in (A)(2)-(4), and felony cases arraigned in the Akron Municipal Court. Attorneys who wish to be placed on that list of Appointed Counsel shall apply in writing to the Akron Bar Association, and submit a photograph and proof of malpractice insurance along with that application. Applications may be found on the Akron Municipal Court's website, the Akron Bar Association website, or in the Felony Arraignment Court. Open enrollment for the list occurs at the creation of this rule for ninety (90) days, and thereafter in August and February of each year. During the months of February and August, members of the Appointed Counsel Committee of the Akron Bar Association will meet in person and review the list for any additions or changes.

(2) In order to be approved for inclusion on the Appointment List, an attorney must meet the following standards:

- (a) Be a licensed Ohio attorney in good standing;
- (b) Meet the requirements set forth in the Ohio Administrative Code 120-1-07 and 120-1-10;
- (c) Take the Annual Criminal Law Update, offered through the Akron Bar Association, during each calendar year;
- (d) Maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct. An attorney shall file a certificate of compliance with this requirement with his or her application, and thereafter with each renewal as prescribed in (B)(6).

- (e) For attorneys with less than two years of practice, take the ABC's of a Jury Trial, offered through the Akron Bar Association;
- (f) For attorneys with less than two years of practice, take the Nuts-n-Bolts of Criminal Practice, offered through the Akron Bar Association;

(3) Upon appointment, the attorney shall perform basic duties as warranted by the facts of the case and shall act in a professional manner.

(4) The attorney shall have a working phone with a secretary and/or voicemail to be able to respond to calls from the Court or clients. The attorney shall inform the Court promptly of a change of address or phone number.

(5) An attorney may be removed from the Appointment List with the approval of a majority of the Appointed Counsel Committee. Any attorney being considered for removal will be notified by the Committee in writing, with the reasons for removal, and given an opportunity to respond in writing within fourteen (14) days. Such response will be distributed prior to the Appointed Counsel Committee meeting at which the removal will be discussed and determined. If an attorney is so removed, the attorney may seek reinstatement upon correction of the reasons for removal. Such reinstatement is governed by (B)(6) herein.

(6) An attorney seeking renewal or reinstatement to the Appointment List must submit the application and supporting information required by the February and August application deadlines of each year. No renewals or reinstatements will be accepted during other times.

(C) Felony Appointments

Any person charged with a felony and found to be indigent, in need of an attorney, and entitled to the same, shall be appointed a practicing attorney from the Appointment List. The Judge sitting in Arraignment Court shall appoint counsel from the Appointment List as defined herein, and shall ensure an equitable distribution of appointments among all persons on the appointment list. Each Judge may also consider the skill and expertise of potential appointees in selecting counsel in an individual case. A record of the appointments made in Arraignment Court shall be maintained by the bailiff in the Arraignment Court, and shall be reviewed annually at a Judges' Meeting to ensure the equitable distribution of appointments among attorneys on the Appointment List.

(D) Fee Schedule

The fee schedule applicable to all practicing attorneys on the Appointment List will be the fee schedule identified by the Ohio Public Defender Commission and approved by Summit County at the time of the request, as well as expenses allowed by Court.

No attorney, including the Legal Defender, appointed to represent an indigent defendant, shall receive any fees other than public funds for services relative to that appointment. Before the appointed attorney shall receive any money from or on behalf of an indigent for services in such representation, the Court shall immediately be notified, withdrawing with waiver of any fees from public funds.