

COURT OF INDIAN OFFENSES
FILED
In the Office of the Court Clerk

THE COURT OF INDIAN OFFENSES
SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA

JUL 24 2012


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BE IT RESOLVED:

PURSUANT TO 25 CFR § 11.313 the following are hereby adopted as the official Rules

of The Court for the Courts of Indian Offenses of the Southern Plains Region, Anadarko, Oklahoma. This Court gratefully acknowledges the hard work and diligent efforts of all those involved in the preparation thereof. These Rules represent many hours of discussion, revision, preparation and proofing. The objective in preparing these Rules was to provide easier access to the Courts, and a more efficient, effective process for all citizens who desire to have their voice heard.

IT IS SO ORDERED:


O. Ronald McGee, Chief Magistrate

All Magistrates Concur:
Honorable Rebecca Cryer
Honorable Steven Parker
Honorable Lisa Otipoby Herbert
Honorable Shannon Edwards
Honorable Phil Lujan
Honorable Tom Walker

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**COURT OF INDIAN OFFENSES
SOUTHERN PLAINS REGION**

**PART I. RULES OF THE COURT OF INDIAN OFFENSES AND INDIAN APPEALS
FOR THE SOUTHERN PLAINS REGION**

TITLE I. THE COURTS

Rule 1.1 Term and Location

The headquarters of the Court of Indian Offenses and Indian Appeals for the Southern Plains Region, also known as the CFR Court, shall be at the Bureau of Indian Affairs, Southern Plains Region, Anadarko, Oklahoma. The Court is open for the transaction of judicial business on all business days throughout the year except holidays unless otherwise ordered by the Magistrate.

Rule 1.2 Officers of the Court

Officers of the Courts shall include:

- Appointed Magistrates
- Court Clerks and Court Interpreters
- BIA/Tribal Law Enforcement Officers, probation officers, and other persons when carrying out orders of the Court
- Attorneys and Advocates representing parties before the Courts
- Bailiffs; and
- Prosecutor

Rule 1.3 Authority of the Court

The Court shall have, but not be limited to, the following authority:

- To punish for contempt, any of its officers or other persons present at judicial proceedings;

Appendix of Forms.....

- To compel witnesses to attend and testify and to produce documents or other tangible objects to be used as evidence, provided, that a defendant in a criminal trial may not be compelled to be a witness against himself.
- To adopt rules of pleading, practice and procedure applicable to any or all proceedings in the Court either at the trial or appellate level. In addition, the Court may adopt uniform rules for the admission of evidence and may require the use of standard forms for pleadings, motions and other documents filed in the Court by litigants, as well as for judgments, writs and court orders.
- In any proceeding, where there is no applicable rule of procedure, a Magistrate of the Court may prescribe same for the duration of that proceeding. The issue shall be presented at a conference of the Magistrates (Quarterly Magistrates' Conference), and the majority opinion of the Magistrates shall be adopted as a court rule.
- Request that the Bureau of Indian Affairs, Southern Plains Regional Director furnish an opinion when the Court is in doubt as to the meaning of any law, treaty or regulation.

Rule 1.4 Transfer of Cases

Whenever in any civil or criminal proceeding the Magistrate finds that the convenience of parties or witnesses, and in the interest of justice, will be served by transferring the action to another Court, the Magistrate may order such transfer.

Rule 1.5 Alternative Venue Allowed

The Magistrate may order that oral arguments in any case civil or criminal shall be held at the courtroom or another Agency within the jurisdiction of the Southern Plains Region for the convenience of the litigants or the Court.

Rule 1.6 Court Officers Not Sureties

No Magistrate, Clerk, Chief of Police or any other officer of the Court may act as surety on any bond or undertaking in any action or proceeding in the Court.

Rule 1.7 Quarterly Magistrate Conference One session each quarter shall be designated for a Magistrate's Conference. If necessary, the Chief Magistrate may call Magistrate Conferences more frequently.

TITLE II. COURT CLERK'S OFFICE

Rule 2.1 Hours

The Court Clerk's Office shall be open for court business from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Thursday, except on such days that are declared legal holidays.

Rule 2.2 Court Clerks

A person shall be employed to serve the Court and shall be known as the Court Clerk. Additional clerks may be employed as necessary, and shall be known as Deputy Court Clerk(s). The Clerks of the Courts, in addition to all other lawful power and authority shall be authorized to administer oaths and attest signatures and shall have all powers necessary and proper for carrying out his/her lawful duties which shall include, but not be limited to, the following:

- Assist in the issuing of complaints, subpoenas, warrants, writs, notice of hearings or other orders of the Court.
- Maintaining records of court proceedings;
- Collecting and accounting for fines and other property taken into custody of the Courts;
- Accepting bonds;
- Filing notices of appeal and petitions, and recording and certifying records;
- Issuance of subpoenas;
- Assembling juries.

Rule 2.3 Prohibition against Legal Advice

The Court Clerks shall not be responsible to assist litigants in preparation of pleadings, and shall not give legal advice.

Rule 2.4 Filings and Maintenance of Records

All proceedings, civil, criminal and appellate, shall be assigned a case number and all filings in the case shall be maintained in the Court Clerk's office. The Court Clerk shall use an official stamp to file all pleadings. Nothing shall be removed therefrom except upon order of a Magistrate of this Court.

Rule 2.5 Fees and Costs

Upon the institution of any civil action or proceeding, the party instituting such action shall pay to the Court Clerk a filing fee as set forth in the Uniform Fee Schedule, except in those cases where the litigant is allowed to proceed in forma pauperis.

In appeals of civil or criminal cases, a party filing a notice of appeal shall pay to the Court Clerk a filing fee as set forth in the Uniform Fee Schedule and in addition thereto shall pay a fee for obtaining a copy of all records available, including transcripts, except when taken in forma pauperis.

Upon entry of judgment or decree in any case or proceeding, where costs are allowed, the party seeking to recover costs shall, within ten (10) days after entry thereof, file with the Court Clerk a verified bill of costs which shall have endorsed thereon proof of service upon the opposite party. The Court may, for good cause shown, and upon written motion filed within the ten (10) day period, extend the time for filing a verified bill of costs.

TITLE III. BIA LAW ENFORCEMENT.

Rule 3.1 Magistrates to Appoint Bailiffs

A Magistrate of the Court may appoint bailiffs from BIA/Tribal Law Enforcement to assist the Magistrate in maintaining order in the courtroom.

Rule 3.2 Authority of Bailiff

The Bailiff, in addition to all other lawful power and authority, shall have the power to administer oaths and subject to the direction of the Magistrate shall maintain the order and dignity of the court and he/she shall have all necessary and proper powers for carrying out his/her lawful duties. The Bailiff or other appointed Court

Security shall have the authority to search any and all persons who attend Court proceedings. The least intrusive method of search shall be employed unless cause exists for a more thorough search to be conducted.

Rule 3.3 Disclosure of Information to General Public

BIA/Tribal Law Enforcement Officer may disclose information regarding criminal cases except as follows:

- The names and birthdates of the defendant;
- The charge;
- The fact that the defendant has plead not guilty and denies the charge;
- The identity of the arresting officer and agency. If any individual charged is at large, additional information may be released to include the defendant's physical description, any alias used and other similar information as may be necessary to protect the public welfare or to assist in his/her apprehension. The Magistrate may, upon application, order the release of additional information as warranted.
- No disclosure of information in juvenile cases is authorized except by Court order.

TITLE IV. ATTORNEYS AND ADVOCATES

Rule 4.1 Eligibility

The following persons shall be permitted to practice before the Courts:

- Any person licensed to practice law by the highest Court of any state of the United States or any Federal Court;
- Any person employed as an attorney by the United States;
- Any member of a federally recognized Indian tribe who has graduated from an American Bar Association Accredited Law School;
- Any member of a federally recognized Indian tribe who is a member of the bar of any Tribal Court of a federally recognized Indian tribe;

- Any person who has been issued an internship license (limited license to practice law) by the Supreme Court of the State of Oklahoma for so long a period as said license is valid;
- Any member of a federally recognized Indian tribe who has been certified by a paralegal training program, as a paralegal or paraprofessional lawyer's assistant or the equivalent;
- Any member of a federally recognized Indian tribe who has been actively employed in one or more law offices under the supervision of one or more attorneys for a period of two (2) years upon the recommendation of their supervising attorney;
- Any person appointed by the Regional Director of the Southern Plains Region and approved by the effected tribes as a Magistrate of the Court of Indian Offenses.

Rule 4.2 Ethics

Persons who practice before this Court and the Magistrates thereof shall be governed by the American Bar Association's Canons of Ethics and Canons of Judicial Ethics.

Rule 4.3 Withdrawal

Counsel shall not be allowed to withdraw from a case after they have made any appearance in the case without leave of the Court. This rule is designed to prevent unnecessary and unfair hardship to the clients and should be so applied.

Rule 4.4 Courtroom Decorum

The Canons of Professional Ethics were adopted by the American Bar Association as a general guide, because as stated in the preamble, "No code or set of rules can be framed, which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life." The preamble further admonishes that "the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned."

In that spirit, all lawyers should become familiar with their duties and obligations as defined and classified generally in the Canons, the common law decisions, the statutes, and the usages, customs, and practice of the bar.

The purpose of this rule is to emphasize, not to supplant, certain portions of those ethical principles applicable to the lawyer's conduct in the courtroom. In addition to all other requirements, therefore, lawyers appearing in this Court shall:

- Always be punctual in attendance at Court;
- Refrain from addressing one another in Court by their first names;
- Refrain from leaving the courtroom while Court is in session, unless it is absolutely necessary, and then only if the Court's permission has been first obtained;
- See that only one of them is on his/her feet at a time, unless an objection is being made;
- Refrain from approaching jurors who have completed a case unless authorized by the Court;
- Refrain from implying dilatory tactics;
- Hand all papers intended for the Court to see to the Bailiff or Court Clerk, who, in turn will pass them up to the Magistrate;
- Hand to the Bailiff or Court Clerk, any exhibits to be marked which have not previously been identified;
- Advise clients, witnesses, and others concerning rules of decorum to be observed in Court;
- Stand when interrogating witnesses, unless otherwise instructed by the Court. However, when interrogating a witness concerning an exhibit the Court may, upon request, grant permission to approach the witness stand or the exhibit, as the case may be, for that purpose;
- Never conduct or engage in experiments involving any use of their own persons or bodies except to illustrate in argument what has been previously admitted in evidence;
- Avoid disparaging personal remarks or acrimony toward opposing counsel;

PART II. RULES OF CIVIL AND CRIMINAL PROCEDURE

TITLE I. JURISDICTIONAL STATEMENT

Rule 1.1 Jurisdiction of the Court

The Court of Indian Offenses and Court of Indian Appeals operate exclusively from the Code of Federal Regulations, Title 25, Part 11 and the properly approved laws, ordinances, resolutions and constitutions adopted by the Indian Nations/Tribes within the jurisdiction of the Bureau of Indian Affairs, Southern Plains Region, as well as the Court's Adopted Court, Procedural and Appellate Rules.

TITLE II. SCOPE OF RULES

Rule 2.1 Scope of Rules

These rules shall govern the procedure in the trial Court of Indian Offenses for the Southern Plains Region in all actions, suits and proceedings of civil nature, and in criminal matters to the extent no different rule is specified.

These rules shall be liberally construed to secure a just, speedy, and inexpensive determination of every action.

There shall be one form of action known, except in criminal cases, as a "civil action."

Any procedures or matters not specifically set forth herein may, in the discretion of the Court, be handled in accordance with Federal Rules of Civil Procedure insofar as such are not inconsistent with these rules.

TITLE III. COMMENCEMENT OF AN ACTION

Rule 3.1 Commencement of Action

All civil and criminal actions are commenced by filing a complaint or petition. The Court shall have civil jurisdiction from such time as the petition is filed and properly served upon the defendant and a return of service is filed with the Court Clerk.

- Rise when addressing, or being addressed by, the Magistrate;
 - Any attorney who appears in court intoxicated or under the influence of intoxicants, drugs or narcotics may be summarily held in contempt.
- When presenting a matter to the Court, it shall be the responsibility of the attorney's to ensure the Magistrates are provided with, or have access to, all tribal, federal and state laws and regulations of the Bureau of Indian Affairs applicable to the conduct of persons within the boundaries of the Court's jurisdiction.

TITLE V. GENERAL PROVISIONS

Reserved.

Rule 3.2 Criminal Complaints

Criminal complaints shall contain a statement of the essential facts charging that a named individual(s) has committed a particular offense. All criminal prosecutions shall be initiated by a complaint filed with the Court by a BIA/Tribal Law Enforcement Officer and/or Prosecutor. Complaints shall contain:

- The signature of the complaining witness, or witnesses, sworn before the Magistrate, Court Clerk, Prosecutor, or any law enforcement officer;
- A written statement by the complaining witness or witnesses having personal knowledge of the violation, describing in ordinary language the nature of the offense committed including the time and place as nearly as may be ascertained;
- The name or description of the person alleged to have committed the offense;
- A description of the offense charged and the section of the code allegedly violated.

Rule 3.3 Assignment of Numbers to Cases

A case number shall be assigned by the Court Clerk in accordance with established procedures and shall be noted on the initial pleading.

Rule 3.4 Pauper's Affidavit

A litigant seeking to proceed on a Pauper's Affidavit shall appear in person before the Magistrate of the Court and, under oath, support a condition of poverty before presenting any other documents for filing.

Rule 3.5 Service of Process

Service of process shall consist of delivering to the party served, a copy of the petition along with summons, issued by a Magistrate or Court Clerk, which advises the defendant that he is required to answer the petition within thirty (30) days or a default judgment will be entered against him.

All documents required to be filed shall be served as under this rule, and except for the complaint, may be served on the attorney of a party.

A civil action is deemed commenced by filing in the Court Clerk's Office a petition and by the Court Clerk's issuance of summons thereon. Where service by publication is proper, the action shall be deemed commenced at the date notice of publication is published. Service of all papers, except a criminal complaint may be made by mail. Where service is sought to be effected by mailing, the action shall be deemed commenced when the envelope containing summons, addressed to the defendant or to the service agent if one has been appointed, is deposited in the United States mail with postage prepaid for forwarding by certified mail with a return receipt from addressee only.

Rule 3.6 Service on Minor

When the defendant is a minor, under the age of eighteen (18) years, the service must be made upon the guardian or parent.

Rule 3.7 Return of Service

The return of service shall be endorsed with the name of the person making service, the date, time, and place of service, and shall be filed with the Court Clerk.

TITLE IV. PARTIES

Rule 4.1 Parties

Every action shall be prosecuted in the name of the real party in interest, except a personal representative or other person in a fiduciary position can sue in his own name without joining the party for whose benefit the action is maintained.

When an infant, or insane, or incompetent person who has not had a guardian appointed is a party, the Court shall appoint a guardian ad litem to represent such person in the suit or action.

To the greatest extent possible given the jurisdiction of the Court, all persons or parties interested in a particular action may be joined in the action, but failure to join a party over whom the Court has no jurisdiction will not require dismissal of the action unless it would be impossible to reach a just result without such party.