

## JUSTICE COURT / MUNICIPAL COURT BENCH CARD ON RELEASE PROCEDURES

RELEASE PROCEDURES ARE SET FORTH IN RULE 8 OF THE MISSISSIPPI RULES OF CRIMINAL PROCEDURE. READ THE RULE!

CRIMES NOT BAILABLE:

CAPITAL OFFENSES “(a) when the proof is evident or presumption great; or (b) when the person has previously been convicted of a capital offense or any other offense punishable by imprisonment for a maximum of twenty (20) years or more.” Miss. Const. art. 3, § 29.

RELEASE PROCEDURES FOR BAILABLE CRIMES:

TO IMPOSE ANY CONDITION OF RELEASE IN ADDITION TO THE MANDATORY CONDITIONS SET FORTH IN RULE 8.4(a), the judge MUST find, after taking into account the factors set forth in Rule 8.2(a)(1) through (15), that releasing a defendant on personal recognizance:

- will not reasonably assure the defendant’s appearance, or
- will pose a real and present danger to others or the public at large.

WITHOUT THAT FINDING, the judge is required to release the defendant on his/her personal recognizance ONLY SUBJECT TO the mandatory conditions set forth in Rule 8.4(a) of the Mississippi Rules of Criminal Procedure.

IF THE JUDGE DOES MAKE THAT FINDING, then the judge shall impose the LEAST ONEROUS CONDITION(S) contained in Rule 8.4 that will reasonably assure the defendant’s appearance or that will eliminate the risk of harm to others or the public at large.

IN DETERMINING THE LEAST ONEROUS CONDITION(S) FOR RELEASE, the judge must again take into account the factors set forth in Rule 8.2(a)(1) through (15). Allowable additional conditions of release are listed in Rule 8.4(b).

WHEN IMPOSING ADDITIONAL CONDITIONS, keep in mind that every accused person is presumed innocent. Your duty is to ensure that a presumptively innocent person is released under reasonable conditions pending trial.

WHEN ISSUING AN ORDER OF RELEASE, the judge MUST inform the defendant of the conditions of release, the possible consequences for violating them, and that a reported violation may result in the immediate issuance of an arrest warrant.

PROCEDURES FOR THE REVIEW OF CONDITIONS AND REVOCATION OF RELEASE are set forth in Rule 8.6 of the Mississippi Rules of Criminal Procedure.

**REQUIRING THE COURT TO CONSIDER THE FACTORS LISTED IN RULE 8.2(a)(1) through (15) WHEN IMPOSING ANY NON-MANDATORY CONDITION(S) OF RELEASE IS “TO ENSURE THAT A JUDGE NOT GIVE INORDINATE WEIGHT TO THE NATURE OF THE PRESENT CHARGE.”**



*Prepared by the Mississippi Judicial College for training and educational purposes pursuant to Section 37-26-1.*