

Practice Directions - No. 12 of 1999

Criminal Jurisdiction (Brisbane)

A: Timely Pleas of Guilty

The object of the following direction is to reduce loss of sitting days in the criminal jurisdiction at Brisbane because of late changes of plea, and late notification of pleas of guilty, in matters already listed for trial.

1. Where a matter has been listed for trial, the matter will be mentioned ("the final mention") at the Friday callover two clear weeks prior to the commencement of the week in which the trial is to begin.

Example: A trial to commence in the week of Monday 26th April will be called over on Friday 9th April.

2. Prior to the final mention:

(a) The accused's legal representatives will ensure that all representations have been made to the Director of Public Prosecutions, and all requests made of the Director, in sufficient time before the final mention to permit the Director to consider them properly and respond. They will also ensure that appropriate advice has been given to the accused and instructions taken from the accused so that the judge in charge of the list may realistically be informed as to the accused's intentions.

(b) The Director will provide the accused's legal representatives with all relevant statements, transcripts and other information, and respond to their representations and requests, in sufficient time before that final mention to permit them to take all necessary steps to give advice and obtain instructions.

3. At the final mention, the accused will be required to advise the judge in charge of the list (currently Mackenzie J.) (through the accused's legal representative unless personal appearance is requested) whether the matter remains a trial.

4. Where a plea of "not guilty" is maintained at that final mention, but a plea of guilty is subsequently entered without any material change in circumstances, the fact that the plea of guilty was not entered at the final mention may be taken into account as a factor disentitling the accused to the benefit ordinarily obtained through a timely plea of guilty.

B. The factual basis for sentencing: Morrison's case

1. To minimise disruption to the efficient disposal by the Court of pleas of guilty, in light of *Morrison* [1999] 1 Qd.R. 397, Crown and defence representatives are to consult, sufficiently in advance:

(a) to identify the agreed facts on which the sentencing is to proceed, and

(b) where extensive or complicated factual situations warrant, to produce a written statement of the facts to be put before the sentencing judge.

2. Where facts in dispute will necessitate the calling of evidence before the sentencing judge (for example, if it is contended that notwithstanding the possession of a substantial quantity of drugs, the accused intended them for personal use, and the Crown does not accept that), that circumstance must be drawn to the attention of the judge in charge of the list, together with an

estimate of the time likely to be involved in the calling of the requisite evidence, sufficiently in advance to allow proper listing arrangements to be

C: Timely notice of any need for a voir dire and as to the resolution of other issues prior to trial

1. By the date set for the commencement of a criminal trial, the trial must be ready to proceed in the most streamlined way.
2. The active use of s. 592A of the Criminal Code, which provides that a judge may give directions and rulings as to the conduct of a criminal trial, after an indictment has been presented but before the empanelling of a jury, will facilitate that.
3. As a particular example of potential problems, too frequently late requests for a voir dire, and inaccurate estimates as to the likely length of a voir dire, mean that juries are unnecessarily kept on standby, and sometimes unnecessarily summoned at all, with needless personal disruption for the jurors, and wastage of public resources.
4. Practitioners are therefore urged to notify the judge in charge of the list, or the criminal listing officer, of any perceived need for a voir dire, sufficiently in advance of the final mention, and in any event well prior to the assembling of the jury panel in the ordinary course, to avoid any unnecessary, or unnecessarily early, summoning of Jurors.
5. Practitioners are urged, more generally, to notify, prior to the final mention, to the judge in charge of the list or the criminal list manager, any issue which might usefully be addressed under s. 592A, as soon as that issue arises.

PAUL de JERSEY
Chief Justice
11 May 1999