

When Should I Close My Case

An attorney is expected to represent an adult client from charging through sentencing, and a juvenile client from charging or detention through disposition.

Sentencing or disposition includes the following:

1. Notifying the client of Appellate rights
2. Filing the Notice of Intent to Pursue Post-Conviction/Disposition Relief and, for misdemeanor convictions, seeking release pending appeal if the client requests it
3. Obtaining credit for jail time served
4. Representing the client at a review hearing scheduled within 60 days of the sentencing or disposition

If a review hearing for which no right to SPD representation exists is scheduled for more than 60 days from sentencing or disposition, the review hearing is not considered part of the underlying case for which the SPD appointed an attorney. In all cases, attorneys must remain aware of ethical responsibilities to both the client and the court for hearings scheduled after cases are administratively closed.

The court often adjourns proceedings pursuant to a settlement agreement or because of another occurrence that results in a delay of further proceedings. The policies for keeping cases open in these situations are as follows:

1. In cases in which the client is adjudicated not-guilty by reason of mental disease or defect, the attorney's responsibility ends with the entry of a commitment order under s. 971.17(3) (and appropriate consultation about appellate rights), unless a review hearing is scheduled to take place within 60 days. Motions for reexamination are new cases. However, when a client's competency to stand trial is in question, the attorney continues until the criminal case is completed or until 60 days after a court determines that the client is incompetent and unlikely to regain competency. See s. 971.14(6).
2. A juvenile case remains open for 60 days after a consent decree is approved by the court. If the case is reopened after 60 days because of an alleged breach of the consent decree, the case is treated as a new case, with a new appointment of an attorney.
3. When a deferred prosecution agreement or deferred adjudication agreement is entered into, the case remains open for 60 days from the date of the agreement. If an alleged breach of the agreement occurs after 60 days, a new case may be opened and new counsel appointed.
4. If a civil commitment case is settled with a hold-open agreement, the case remains open for 60 days after the agreement is entered into (unless the case is finalized at an earlier date). If the case is reopened after 60 days because of alleged noncompliance with the hold-open agreement a new case may be opened and new counsel appointed.

5. If a bench warrant or capias is issued for a client for failure to appear in court and the client has no further contact with the attorney within 60 days of the issuance of the bench warrant, the case may be closed. The attorney must file with the court a motion to withdraw on the basis of the time elapsed since the issuance of the bench warrant. If the client later appears, a new case is opened and new counsel will be appointed.
6. If the court orders restitution as part of sentencing, but does not determine the amount at the time, the attorney is ordinarily required to represent the client at the restitution hearing as part of the original case. However, if no restitution hearing is held or scheduled within 60 days after sentencing, the attorney may close the file.