

This book is dedicated to MMBG, CMG, CGG,
ASG, EMG, LCG, MAG, and GAG. Thank you to
my parents for their unstoppable support. A special
thanks to my friend and co worker DL.

Introduction

I have been a lawyer for 20 years. I have helped people charged with shoplifting all the way to first degree murder. Most Tennessee cases begin and end in General Sessions court. The first time you come to court you are terrified. Court is a scary place. It is designed to be scary. I want you to have this information so you will have knowledge, control and peace as you enter General Sessions court. I look forward to helping you. You and I want to hear the phrase:

NOT GUILTY!

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Chapter 1

How did I get here?

This book is about understanding General Sessions court. General Sessions court can be referred to as the people's court. Sessions is where most of the people of Davidson, Sumner, Cheatham, Dickson Williamson or Wilson counties will appear before a judge. Over 90% of the cases that go through the criminal justice system will begin and end in General Sessions court.

The first step to understanding General Sessions court is to ask what is General Sessions court? In Tennessee there are courts "of record" and "inferior" courts.

Courts "of record" are Criminal courts and Circuit courts. In these courts there are court reporters writing down everything that is said and done. In Circuit or Criminal court the State can bring a felony charge against someone. You can have a twelve member jury trial in Circuit or Criminal court.

In General Sessions court you may be charged with a felony but the Judge cannot sentence you for a felony offense. In General Sessions court you can

demand your right to a trial by jury but there are no juries. In General Sessions court you can have a judge only or “bench trial.”

Let us talk about how you came to stand before a General Sessions court. There are three ways this can happen. You could have been arrested. You could have been given a citation. Finally, there can be a capias.

In an “arrest” the person is usually taken into custody. He or she is taken to the police station and booked into the jail. The person either makes bond and leaves, is released on “pre trial release” or the person stays in jail until the case is ended.

When a person is “cited” they receive a citation. A citation looks like a traffic ticket. With a citation you are not taken downtown and booked. You agree to come to the sheriff’s office on a certain day and time and book yourself. When you think about your right to an attorney, right to remain silent and other rights remember that a citation is the same as getting arrested.

You can be arrested based on a capias. In the area of General Sessions court the most common way you see a capias is if someone has failed to come to court. When you are arrested on a capias there usually

has been some court date that you missed or a grand jury indictment as been issued.

To wrap up what's our three ways to get into General Sessions court, number one arrest, number two citation, and number three, capias. It's sinking in now isn't it? I hope so because with knowledge comes power, with power comes peace, and with peace you have hope.

Arrest, citation and capias. Three ways to be brought before a General Sessions judge. How did you get here? However you got here, I hope that you will **WIN** your General Sessions case and hear the phrase:

NOT GUILTY!

Chapter 2

How to “catch a case”.

An arrest can be a matter of me doing the wrong thing at the wrong time with the wrong people.

TRUE STORY:

Back when I was a probation officer I talked to a lady about her son. She did not know what was going on because he kept getting arrested. She just knew he was simply hanging out with the “wrong people.” I was her son’s probation officer and I knew his criminal record. I said, Mom, he is not hanging with the wrong people, he **IS** the wrong people!

TRUE STORY:

Once a fellow told me he was standing at a street corner, running out to cars simply asking folks what they wanted. Unfortunately he had a little dope in his pocket. He was in the wrong place at the wrong time doing the wrong things. You could be doing the wrong thing with the wrong people at the wrong time.

TRUE STORY:

A man sold drugs from time to time. A friend of his said “let’s go rob the dope man. He always has money.” It sounded like a good idea. Nobody will get hurt right? Often times somebody gets killed while

somebody is getting robbed. When this happens you can be charged with Felony Murder and face life in prison. Let me make sure that everyone is clear, **robbing the dope man is still robbery.**

You can be at the right place with the right people doing the wrong think. Maybe you went a party with every intention of obeying the law. You were sober when you got to the party. Maybe you had a few drinks. Maybe you had a few more. You might have way too much to drink and drive. Driving while intoxicated is a crime.

Another way to get arrested is during an investigation. Detective “Bob” of the robbery division is investigating several robberies of fast food restaurants up and down Nolensville Road in Nashville. A picture is developed of different suspects based on the description given by the store managers and employees. The detective develops a line up. He puts a picture of the suspect in that line up along with other people that look similar. Now let’s say two or three fast food managers say, “it is number 3.” Suspect 3 is identified and that turns out to be you. You will be picked up, given a free ride to the police department and booked into the local jail.

An arrest may occur like this, you're at home. There is a knock on the door. A detective says you're under arrest, come with us. That's an arrest. **Free Tip:** Do not run out the back door and try to get away. When the police come to arrest you they typically do not come alone. They usually have another officer waiting at the back door. If you have anything in your hand that could look like a gun you could end up getting hurt or killed. Even if you get away they will start looking for you and it will make things more difficult for me when I am trying to negotiate your case. If the police come to arrest you, do not answer questions without a lawyer and go peacefully with the detective.

Now let's say you have been "asked" to come down to the police station to "talk". Take a look at what might happen under the "let's talk" scenario. A detective is investigating robberies and he suspects that you are a part of this robbery operation. He says "I need you to come down here because I am trying to clear things up". The detective says "I am just going to clear up these robberies and you are not in trouble for anything. I don't suspect you did anything. After all, I know your mom and dad. Everyone in your family is good people. I would not worry about a thing. I just need to clear this

investigation up. Come down to the police station and let's talk". So off you go. Often the first thing you ask the detective is "are you lying to me detective?" "Oh no, no, I am not lying; just tell me what happened". You begin to explain, "I do not know anything about the robbery". The detective says "well I know that you know something about it so just tell me what happened. Did you go in there with somebody else, maybe they pulled a gun and did the robbery?" "Yeah detective, that's it, "Dude" did it. It is all "Dude's" fault". The detective then says "you know if you tell me everything about this you can go home." What you heard very clearly was "you can go home?" I promise", says the detective. With this promise in mind you tell the happy detective all that he ever wanted to know. "It was this bad other person that came in and he robbed the people. All I did was drive "Dude" where he told me to. "Dude" robbed it". You're happy detective says "you know more than that. You had a gun didn't you, but maybe the other person did the robbery?" "Well OK, I had a gun but I did not rob anybody. I didn't have anything to do with the robbery. All I got was gas money".

I know the words you just said. Do you know the legal impact of what you have just said? You just

admitted to a crime! You just admitted to being an active part of that crime and receiving proceeds from the crime and now you are arrested. You do not understand “criminal responsibility” which is helping the commission of a crime and getting a reward from committing the crime.

“Jef, they didn’t bring me down to the court or to the police station. I wasn’t arrested right?” Wrong! In this situation you are simply not in custody. You could have just not gone to the detective’s office, but instead you went there on your own and you started making statements without a lawyer. **Free Tip** - never never, never, never, never, never talk to the detectives without your lawyer, never. Make sure you understand the phrase, NEVER talk to the detective without your lawyer! If you think it is hard for me to represent you sometimes, just wait until you make statements and incriminate yourself. In 20 years people have hired me to help them get out of trouble AFTER they made admissions and confessions to police officers or detectives. Please do not get in so deep that I cannot get you out.

General Sessions court is also where you would go if you got a citation. What is a citation you ask? A

citation is an arrest. I have heard people say, “I wasn’t arrested I just got a citation” but you have to go to court. There are 11 General Sessions judges in Nashville. I know each one of them. I promise you, none of them are going to send you an invitation to coffee and donuts in room 4c of the Justice A.A. Birch building. You were arrested. A citation looks like a ticket. It may look like speeding ticket. If a police officer puts his or her blue lights on you are under arrest. If a police officer says you have to stay somewhere and you are not free to leave then you are under arrest. With a citation, instead of having to make bond you promised to come to court on a certain day and time. A citation is your promise. When you show up you have done your part. Now you will be booked.

Remember a citation has a date on it. If you were given a citation you signed a promise that you would appear to be booked. If something comes up, perhaps you are sick or maybe a family emergency occurred that prevents you from being booked, tell your lawyer as soon as possible. If you do not come to be booked an arrest warrant will be written charging you with “failure to be booked.” Chances are good the next time you are stopped, pulled over or questioned by the

police the option of a citation is not likely instead they will simply arrest you. Make sure you report to be booked.

Lastly a capias. If you hang out in court for any period of time you'll hear the judge say "forfeit and capias." Forfeit is a piece of paper that means bring me the body of whomever. A capias could say bring Jef Goldtrap down here. Often when a defendant does not show up for court you will hear a capias called a "bench warrant." Either way it is something which can be avoided. Did you here that? Avoided. SHOW UP for court. If there is any reason why you cannot be in court tell your lawyer, tell your bondsman, tell someone. Don't get arrested. If you do I am here to help you hear the phrase:

NOT GUILTY!

Chapter 3

Even lefties have rights.

General Sessions, like other courts, will be a terrifying experience. You will be frightened but knowledge will bring peace and hope. We will now talk about a few of your important rights. I have heard many people say something like this; "All of them criminals have rights, it's just terrible. Regular people do not have rights. Guess what? Everyone in Tennessee has rights. You and I have rights protected by the United States and the Tennessee Constitution.

Will you ever have to use those rights? Maybe not. For example if you never choose to vote does that mean I do not have the right to vote? Of course not. By not voting you simply fail to exercise your right to vote. You have rights which are important if you have been charged with a crime. A few days ago I went fishing. In my tackle box are lures I have never used. I have them but I have not used them.

You have rights whether you use them or not. There are several rights which are important to you. You have the right to remain silent. That is a guarantee to you by the Constitution of the United States and of Tennessee. Even, if you are visitor here from another

country you have this right to remain silent. Not many people know when to shut up. If you are in this country without legal documents, you still have the right to remain silent. You have no obligation to confess or to help the government prosecute you.

No one can force you to make a statement against yourself. This is your Fifth Amendment right. Use that right. That right does not only apply when in the courtroom. You have that right when you are arrested. You have that right when you are confronted by a police officer. You have that right at any time.

A police officer could come up to you on the street and say, “how's the weather?” And you can say, “I am not talking to you”. The officer says, “I am just a local officer and I want to know if the fish are biting or if the kids are playing softball today?”

You can legally respond, respectfully of course, “I am not talking to you officer.” The officer can come up to you with blue lights flashing and say, “I just saw you run the red light.” You can say “I am not talking to you.” The officer might say, “Give me your driver license, registration, and insurance information. You can give him/her the document and he or she might then say, “What do you have to say about running the red light?”

You would say, “I have no obligation to incriminate myself.”

You have that right to remain silent but, do you have the ability to remain silent?

TRUE STORY:

A man ran a stop sign. The officer walked to the truck window. The driver said, “You stopped me about the marijuana right?” I had another client stopped for a traffic violation and immediately said “I do not know anything about the robbery next door.” You have the right to remain silent. Do it!

You have the right to an attorney. Do not let anyone tell you that you do not. I work with many police officers, detectives and state troopers. Do not get your legal advice from them. They don’t practice law they enforce it. The majority of the officers I have worked with love what they do and they are professional about their chosen work. Even with that statement remember, you have a right to a lawyer. So get one! A lawyer will be very beneficial to you and will help you navigate this very complicated system.

You are a citizen of the State of Tennessee. You’re charged with violating a law of the State of Tennessee. The State is represented by a licensed

attorney who has been trained in how to use the rules of evidence, the rules of procedure and is aware of the cases that have interpreted all those rules against you. The prosecutor will use their training and knowledge to try to send you to jail. You can expect the State of Tennessee is going to bring their “A” game, guns hot and ready to put your tail in jail.

“Oh no! What do I do?” Get a lawyer, maybe me. If you do not call me call somebody. Do not go to jail just because you didn’t have a lawyer. You bring your “A” game too. “A” lawyer.

You have a right to a lawyer at all stages. You can say “I am answering NO questions until my lawyer gets here.” **FREE TIP:** If you demand a lawyer remember to stick to your demand. Do not wait 30 minutes, 3 hours or the next day and say OK officer I will talk to you now. You know what that means? You are waiving your right to a lawyer. Exercise your right. Wait for your lawyer before making any statement to the police.

Here is a make believe story about a traffic stop. What would you do?

Officer – “How much have you had to drink? Why do you smell like marijuana? Where were you

between 8:00 and 12:30? Where is Mr. X who we suspect to be selling drugs?”

Client – “Am I free to leave.” *Officer* – “Yes.”

Client – “Great see ya.” *Officer* – “Well you cannot leave.” *Client* – “That means I am under arrest and I demand to have my lawyer present for all questioning”.

Or – “Officer I respectfully exercise my right to remain silent and not incriminate myself.” You have the right to refuse to answer questions.

You have every right to a speedy trial. Not like 15 minutes or anything but speedy. The best use of this right is when you are being arrested or indicted. For an example, if you get arrested you cannot complain that in two days you have not had a trial. The right to a speedy trial is technical and you will want the advice of a lawyer. Ask your attorney if there is a speedy trial issue in your case so you can quickly hear:

NOT GUILTY!

Chapter 4

Lawyers and other scary creatures.

Who is your lawyer? Well, let's say you are not sure. In Nashville and many counties there are settlement dockets. Some counties call this "first appearance" or "attorney and set" or "arraignment" docket. Generally it is a docket where the court is asking, who is your lawyer? Maybe you do not have a lawyer yet. What should you say when the judge calls your name? Your choices are this: A) I do not have a lawyer, I cannot afford one, B) I do not have lawyer, I need time to hire one, C) I have a lawyer and my lawyer's name is Jef Goldtrap. The court wants to know who will come to defend you. The United States Constitution and the Tennessee Constitution gives each person the right to have a lawyer. A lawyer will be very beneficial to you and will help you navigate this very complicated system. Do not do this on your own.

Can you insist on representing yourself? Of course you can. "Jef I watch courtroom drama on TV and I think I can represent myself." I really do not encourage representing yourself or going "pro se." Why? I do not want you to do your own dentistry. I do not want you to perform heart surgery on yourself. Why

would we ask people to go into court and represent themselves? Of course you can represent yourself. But why would you want to?

Let me ask, do you know how to use the Tennessee rules of evidence? What is relevant evidence? What's hearsay evidence? How do you impeach your witness? How and when do you use character evidence? What is the procedure that you would use? What rules of criminal procedure would apply? How has the Tennessee Constitution impacted the facts of your case? What are the relevant state court cases that have interpreted the question you seek to argue? You will get over your head quickly. Rather than do this yourself and hire me to clean it up, please talk to me before hand.

Now, back to the question, who is your lawyer? If you do not have a lawyer, ask the judge for time to hire a lawyer.

Ok so you cannot afford an attorney. Maybe you are reading this saying "I am behind on the rent, electric bill, child support and I just got arrested I cannot afford a lawyer!" It will be OK. There is no shame in having tough money times. Everyone, including yours truly, has had tough times. When you go to General Sessions court ask the Judge to appoint a lawyer for you. You will be

required to fill out a form about your financial situation. Don't worry it is not a complicated form. If the Judge determines that you qualify, someone from the Public Defender's office or a private attorney will be appointed to represent you. **FREE TIP:** Tennessee has an excellent group of Public Defenders. Over my years of practice I have known many fine lawyers who were and still are Public Defenders. They do a difficult job under difficult circumstances and their services should be appreciated. **DO NOT** come to my office and talk about your terrible Public Defender. You are welcome to hire your own attorney and I encourage anyone to explore their options.

Come see me but do not come to my office and begin by telling me every little thing about your case. The first thing I need to do is talk to your attorney, the Public Defender's office in this case. RING, RING; "Hello public defender may I please talk to your client?" They are going to tell me okay, that is just professional courtesy on my part and it is part of our code of legal conduct. It is highly inappropriate to speak to a represented party without first contacting the current lawyer.

What happens when you ask the judge for time to hire my office? The first thing to remember is that Judges control the docket or the timing of things in their court. There is no magic rule on whether or not the court will give you time to hire your own attorney. It is also up to the court to decide how much time to give. “Judge can I have six months to hire Jef?” Not likely. “Judge may I have two weeks to hire Jef?” Much more likely. **FREE TIP** – Many persons meet with me and they do not have the money for my fee yet. Some may say “let me pay you in two weeks.” Many times I can go to court and ask the Judge for a continuance. If you are asking for a continuance you may be seen as dragging your feet. If I am asking for a continuance the Judge might see that this is for a good reason for allowing the continuance.

TRUST ME. Hundreds of times in 20 years folks have come to me with a situation something like this. You need a lawyer as soon as tomorrow and you swear you will pay for the lawyer next week. **FREE TIP:** An attorney wants to and needs to be paid “upfront.” Why? When I tell the judge that I represent you I have made “an official appearance.” I am now ethically obligated to do my best as your lawyer. What if you went to work and did your job from Monday

through Friday and your boss says “I promise I’ll pay you in two weeks”. Does that make you feel uncomfortable? It should.

Suppose I make an appearance and you decide not to or cannot pay your fee? I now have to ask the Judge to let me “withdraw” from the case. Pay your legal fees. It is the right thing to do. If you cannot pay all the fee, at one time, talk to my paralegal, Debra. Ask Debra about payment plans. We have worked with lots of people and will work with you. IF you make a plan then follow your plan. Now you know the secret of why lawyers ask to be paid before going to court.

What if I do not have a lawyer, what do I do? First of all go to court anyway, with or without a lawyer. Say, “I need a lawyer.” “I need time to hire a lawyer,” or “I need the judge to appoint a lawyer.” You have a right to a lawyer, you need a lawyer; you need me to be your lawyer.

Call me and know what to expect in General Sessions court. Let us work hard so you can WIN in General Sessions court and hear:

NOT GUILTY!

Chapter 5

ARRESTED! Now what do I do?

Remember you are going to be in General Sessions court because you are arrested either on a citation, a warrant or a *capias*. Many people have wondered what happens to you when you get arrested. First you are going to be booked. You will be fingerprinted. Your picture will be taken and some basic information asked of you. After getting some basic information you will be taken to a magistrate. A magistrate is like a judge but not exactly a judge. The magistrate is not there to decide if you are guilty or *NOT GUILTY* they are only deciding “probable cause.”

What does probable cause mean? Well something like, if it walks like a duck and it quacks like a duck it is probably a duck. That is almost probable cause. Is it likely that a crime was committed? Is it likely that you are the person committed that crime? In 99.9% of the cases the Magistrate will then set a bond amount and tell you when your next court date is. Unless the state of Tennessee is asking for the death penalty you have the right to bond.

Dismissed, Retired or Continued. What will it be for you? There are many times that I've gotten cases dismissed, aka NOT GUILTY!, for my clients. That's a fantastic result. Sometimes a case is dismissed because the State realizes that they do not have enough evidence to prosecute you. Sometimes a case is dismissed because the State realizes that their witnesses are just lying out their backsides and the State cannot prosecute you. Sometimes a case is dismissed based on a plea to another charge.

TRUE STORY:

Recently a woman was charged with four offenses. I negotiated one charge to a lesser offense and agreed to plea to that charge IF the state would dismiss the other charges. She pled guilty to the lesser charge in count one and the state dismissed counts two, three and four. This is an example of how a case is dismissed as a result of negotiation.

Now I'm not doing all the work here. Some tasks fall on you. Many times a case can be dismissed based some conditions after negotiation and settlement. Here's where you come in. Suppose I negotiate an agreement whereby the case will be dismissed if you come to court and show that you have completed

community service work, made restitution for something that was stolen or damaged, completed drug treatment, and had good and lawful conduct while on bond? These are tasks that are assigned for you to complete and then the case could be dismissed. Wouldn't that be good?

TRUE STORY:

I represented a man who was a guest in our country. The State could prosecute but it was not the best case for them. My client could NOT plea guilty to a crime because he would be deported. The prosecutor and I agreed that my client would finish a certain class. The prosecutor agreed that when my client finished the class the case would be dismissed. This was a “win win” situation. My client did not have a conviction and could remain in this country. The prosecutor got someone to attend a class. The case was dismissed based on the completion of that class.

So, can a case be dismissed? Yes it can. It can be dismissed in settlement or by you agreeing to do something.

So here's a phrase for you “dismissed on cost”. Say what? This means the case itself can be dismissed but hold on it's not over yet. Now you must reach in your pocket and pay the court costs that are assigned to

your case. In 20 years I have seen court costs as little as \$120.00 and I have seen court costs in the thousands. What will be your court costs? That depends on how your case was disposed of and how soon it was disposed. Often the earlier a case is ended the less the costs.

TRUE STORY:

I represented a lady whose case was going to be dismissed on payment of court costs. My client and I went to the clerk's office to find out how much the costs would be. The costs were going to be over five hundred dollars. My client could pay \$250 that day. I went back in front of the judge and asked if he would "cap" or agree to reduce the cost to just \$250 and we can pay that today and be finished. The judge liked that idea and we were done! Everything in life, including court costs, can be negotiated.

"Well Jef, I do not want to pay costs, or go to a class or do community service work. I did not do anything and I will not take any disposition other than a full apology from the police officer". Okay, I understand. Instead of costs, class or some condition, let us take the chance of guilty or wait for it, NOT GUILTY! after trial. Here is the question, would you rather pay your lawyer several thousand dollars for the

opportunity to go in front of a jury, take the chance of getting a conviction, take the chance of going to jail, maybe going to prison, or would you like to pay \$300 in court costs in a case and have it dismissed and finished today? You will want to pay a little cost for the peace of mind to know that the case is over today.

Have you ever bought an insurance policy? Have you ever bought a lotto ticket? You pay some money for the chance of winning later. You decide that the money is a safe bet. In court you can make the comparison that paying some in costs is paying a little for the chance to remain out of jail.

Cases can be retired. No that does not mean they are old. It actually means the State is not going to prosecute you. The State has decided not to prosecute you right now anyway. Maybe they won't prosecute you ever! I can retire a case for different periods of time. Let's say a case is retired for 30 days. For thirty days, you now have something else to do. You cannot get arrested. Do not "catch a new case". Cases can be retired for various lengths of time. Maybe 30 day maybe 6 months, maybe 11 month and 29 days, you get the idea. So after completion, of whatever amount of time it is

and you have done your part, the case will then be dismissed.

Ok one more option is continued. You are going hear “continuance” often in court. People are going to announce “judge we have got a continuance in this matter.” A continuance means not today. That's all it means- not today.

In General Sessions, especially in Nashville, you will hear the words “agreed continuance.” In an agreed continuance you agree to reset the court date to another date. When that day comes be ready to show proof of these accomplishments. But, there is always a “but”, if you come back to court and do not have the tasks finished that you were ordered to do your case will continue to be prosecuted by the state. An important word in that statement is ORDERED. You could go to jail for up to 10 days. Why? For contempt of court! Remember when you said “I can finish the class or do the work.” The judge issued an ORDER. You agreed to the ORDER. You said you would finish the task. When you return without the task you have violated the court ORDER and you could be jailed for up to 10 days. So you serve the ten days and the original charge, maybe simple possession of marijuana, is over, right? Wrong!

After you serve the 10 days you still are prosecuted for the original charge. **FREE TIP:** When you enter an Agreed Continuance do what you said you would do. Then hopefully you will hear that all important phrase:

NOT GUILTY!

Chapter 6

I didn't know I had to

Bond is an important subject. There are two ways you can get in front of a judge. In an orange jump suit or in regular clothes. You can wait in jail a long time if you cannot make bond. I had a client once who was in jail 15 months before his trial. At the end of the trial he was found *NOT GUILTY!*

Think about this little tale. You are in jail. You are terrified. You get a tap on the shoulder and a guard says, guess what, grandma made your bond. You are so happy. You are getting out. You are to sign a lot of papers that some deputy told you to sign. Everything is great. One of those papers was titled “conditions of bond.” They will say things like, keep in touch with your attorney, come to court on a certain date but that’s not all you need to know. Often a condition of release will require you to sign up for electronic monitoring, drug screens, pay your child support, attend drug or alcohol group meetings, or, one that I see frequently, stay away from a certain person. It is important that you know exactly what you are and are not supposed to do while you are released on bond.

No contact is a frequent condition of bond. Let us study this condition. What exactly does no contact mean? For our example you are a man and you are supposed to have no contact with your wife, girlfriend or a specific named person. No contact means do not walk up to her and say, “hi baby, I love you, let's work it all out.” No contact means do not go to her house. Do not go to her church on Sunday. Do not go where she shops for groceries. Do not call, text, instagram, facebook, tweet, or use **any** social media to contact that person. If the judge leaves out on form or another of no contact this is NOT permission to communicate. Do not ask the person’s mama, grandma, brother or cousin to pass a message to him or her. STAY AWAY.

TRUE STORY:

I have been in court and the defendant said “Judge I did not know she would be there.” Judge replies, “Really?” You two lived together for ten years and have three children together. You ate, shopped, churched and vacationed together. Now you could not recall where your family went for groceries? You did not remember that she would be at church? Remember she sings in the choir but, I forgot, she went to that church. Oops! Stay away! Listen and keep your freedom.

If you are told not to be around someone can still go to your local grocery? Sure. Do your shopping. If the person you need to avoid is in the same store, quietly leave your cart, go get in your car and go to another store. What should I do to be safe? Use another store. If you are not supposed to be around your girlfriend and every weekend you two would shop at a Piggly Wiggly then simply go to another store. Better yet go to another store in a different part of town. Is it worth going to jail to make sure you get the 10 for \$10 special? I don't think so. Stay away and stay free.

Remember also no contact is not cancelled if he or she contacts you. The judge ordered YOU to have no contact. The other person is not under an order. If you want to remain free STAY AWAY. If you do not like jail food, STAY AWAY. The real meaning of "stay away" may be that you are going to stay away from your family for Thanksgiving and Christmas because you were too silly to follow the judge's orders. Be safe, be free, stay away and stay out of jail. If you are not sure what our conditions of release are, we can talk about them the first time we meet.

TRUE STORY:

I helped a man who was charged with assault. The judge said “stay away” from your wife. I said “Mr. Client do not go around her” – OK Jef. I said “Mr. Client do not call her” – OK Jef. I said “Mr. Client do not get on her Facebook” – OK Jef. A few days later he called me. Jef, I think I am in trouble. I could hear police radios in the background. I said, “you are at her house right?” “Well she said she loved me and wanted to work this out so I came over.” Guess what? He walked himself right into the jail cell. She may love you again. She may want to “work things out” with you but the first time you argue and the police are called there you’ll be with an order that says no contact. Stay away, stay out of jail, stay free.

Do not open the door to the jail cell and come out into the world and then walk back in. If you are on bond know the conditions of your release. Follow the conditions of your release and stay out of jail.

How much should my bond be? Bond amounts can vary but, you have a right to bond. Even if you are accused of the most horrible crimes you have the right to bond. Can you make the bond? This is a different

question. You do have a right to a bond but not necessarily to a bond amount that you like or can make.

In Tennessee we use professional bonding companies. These are people that you will need to know in a situation like this. In every county jail there should be a list of the bonding agents that are permitted to write bonds in that particular county. Bond agents are allowed to charge a 10 percent premium plus administrative cost. For example if your bond is \$1000 your bondsperson will charge \$100 premium and \$37.50 administrative fee. The bondsperson will do the rest and walk you out of jail.

If you later fail to appear in court the judge will tell the bondsman to bring the court \$1000.00 (the original bond amount) or the body of the defendant. Believe me when a local bondsperson has bring money or a body they will find you and bring you to the jail. Keep in touch with your bondsperson. If you move let them know. If you change phone numbers let them know. Let them know who your lawyer is. Your bondsman and your lawyer are often on the same side.

My bond is too high! What will I do? If you cannot make bond I can negotiate with the prosecutor to lower your bond. If no agreement can be reached I often

file a Motion to Reduce Bond. Tennessee state law says a bond cannot be too “onerous.” How much is too much? This can be debated. Let me help if this is the problem. I once got a bond lowered from two hundred thousand dollars to two thousand dollars.

The facts of your case are specific and we need to talk about the particulars but I may be able to help. Maybe help you hear the phrase:

NOT GUILTY!

Chapter 7

Where is court anyway?

In Cheatham county General Sessions is held on the second floor of the courthouse. In Springfield General Sessions is on the second floor of the county building which is connected to the jail. In Charlotte, Dickson County, General Sessions court is held in the historic courthouse square. Here is a link to the addresses for many surrounding county General Sessions courts in Tennessee.

<http://www.tsc.state.tn.us/administration/judicial-resources/judicial-district-map>.

In Nashville your General Sessions court case will be heard in the Justice A. A. Birch building at the corner of Second Avenue and James Robertson Pkwy. When you come to court you will enter on the 2nd Avenue side, where you see the statue of A. A. Birch. You will pass through metal detectors so make sure you are not bringing in weapons or sharp objects. After passing security there is a large board with the names of persons and court rooms. It's an electric board that looks like the ones in the airport. The courtroom number will help you find on which floor you need to be. For

example courtroom 5c is on the fifth floor, 4a, b, c and d are on the fourth floor, 3 a, b, c and d are on the third floor and 1a is on the ground or first floor.

You might say, I want to be in front of judge _____ . Fill in the blank. I have been practicing law for 20 years. I know many of the judges. Some I knew when they were fellow lawyers. All of them are good people, all of them are competent judges. They know the law.

All the judges will hear your case and they will make a decision based on the evidence, the arguments and of course the law. Understand this; Judges are human beings that deserve respect. Judges have good days and bad days just like all of us. They even have moods, some good some bad. Knowing that it's important that you do everything you can to ensure that you are not doing anything especially irritating.

Is your friend or family member in jail for a felony charge and unable to make bond? Their case will be in room 3a. A misdemeanor jail case will be heard in room 3b. In Cheatham, Robertson, Dickson and Sumner counties your family member that could not make bail will appear in the same courtroom as everyone else. Here is an important note: When prisoners are brought in

for “jail docket” DO NOT visit with them. Do not send messages or communicate with the prisoners. We know it is difficult to see your loved one in jail. Imagine joining them in jail. Twice I have been called by panic stricken family members who just saw a loved one arrested for talking to a jailed family member.

When the judge says, DO NOT talk with the prisoners, listen to the court seriously. Better to wait until visiting hours to see your friend or family member than be waiting until visiting hours for your friends or family to see you.

TRUE STORY:

I represented a person in General Sessions court in Charlotte, Tennessee. They could not make bond so they were sitting to the left of the judge in a jury box. The family members sat in the church pews in front of the judge. My client’s brother kept whispering to the defendant. The judge said Mr. Goldtrap tell your client’s family to not communicate with the defendant. So I warned him. He said, “OK, I will not talk to bubba.” About 10 minutes later my client and his brother are still doing sign language and mouthing words to each other. The judge said, “Sir, is this your brother? Come up here where you two can talk better.” They were so happy now

that they could whisper to each other. Unfortunately the judge then said, “reset this case for one week and keep both these men until then.” Remember it is better to visit your loved one in jail than have someone visit both of you in jail.

If you are coming to the Justice A. A. Birch Building to be booked go to the ground floor sheriff’s room. If you are coming to be booked your name will not be on those big boards just past the metal detectors. Most days there will be a line of people so get in line and wait your turn. If you get confused about which courtroom to appear in there are name boards on each floor. Look for your name and go to the correct courtroom. If you still get confused go to the second floor and ask for the criminal court clerk. The nice clerks will help you find your courtroom.

General Sessions is going to held on several different floors of the Justice A. A. Birch Building. It is important to know who your judge is or which courtroom you will be in. Be in the right place at the right time.

In down town Nashville you will find a lot of congested streets. Nashville streets are sometimes one way, have strange parking and are often filled with

construction equipment. If you drive to court allow time to find a parking spot and walk to the courthouse. “I had trouble parking” is not a good excuse for being late to court. A judge, instead, may hear the words “Jail would be easier than having to park.” Oops! So get to the right courtroom at the right time so we can hear the Judge say:

NOT GUILY!

Chapter 8

Suppose I'm late?

Most courts start at 9 o'clock. If you are not sure what time court starts ask your bondsman, your lawyer or the court clerk's office. Arrive at 8:45. Many times I have arrived late and maybe you have too. Court is not the place to do that! If you are supposed to be in court at 9 o'clock be sitting in the courtroom at 8:45.

You are supposed to be at court 9 o'clock so 8:45 gives you a little wiggle room for obstacles you may not expect. I will get there sometime around 9. Sometimes I will get there late. Now that's ok for me because I might have several courtrooms to be in but you only have one. They will eventually call your name, right? Yes. When they call your name you need to be there to answer. Often I have been in court and a judge is calling the docket and somebody is not there. In about 15 minutes, 30 minutes, an hour and half later they came ambling in. Judge there was traffic. You know what, the judge had to drive through traffic too. Judge I had to take the kids to school. Guess what, judges have to take their kids to school. If you judge shows up to hear your case you need to be there. If your lawyer, the prosecutor and

the judge are all late you should still be there. Be at the right room, at the right time on the right day. You can do it!

TRUE STORY:

I was in court one day and a gentleman told the judge “I am late because I had a flat tire.” The judge said “Did you change it?” “Yes judge.” Judge said, “Let me see your hands.” His hands were clean. Judge said “I’ve never changed a tire without getting my hands dirty, take him away.” The judge said “I’ll make sure the man was on time next time because the sheriff will be bringing him.” Know what time court is and be there on time.

TRUE STORY:

I once had a client that did not like crowds. They made him feel “uncomfortable.” Court was at 9:00 and he arrived at 8:50. The courtroom was packed, standing room only and this made him feel “uncomfortable.” He decided to wait outside in the hall. The judge called the docket and several folks were finished and left the courtroom. My client then steps back in the courtroom at about 9:40. At 11:30 the judge says “is there anyone that did not hear their name and expected to be in this court.” Client raises his hand and said I was in the hall and did not hear my name. Can you guess what happened? The

judge said I will help you be on time next time. He took the man into custody and made him stay in a jail cell. He was very “uncomfortable” now. The judge decided, at about 5:00 that evening that the fellow could go home. Believe me he arrived early and stayed in the crowded courtroom next time and every time until the case was ended. Better to stand in a crowded courtroom than sit in an empty cell.

If you are in Judge Maxey’s court in Ashland City be there early. If you are in Judge Hunter’s court in Gallatin be there early. If you are in Judge Perry’s court in Springfield be there early. See a pattern?

Arrive early and you should leave the court room in the same clothes you arrived in, not jailhouse orange. Remember, you can keep your “street clothes” on if you are on time to hear:

NOT GUILTY!

Chapter 9

The witness is a no show.

We are going find out what happens if the officer or witness is not in court. Next we will ask, can a victim drop the case? Finally we will find out what happens if no one is there to prosecute you.

Suppose the officer isn't there. It may depend on the docket you appear on. In Nashville we have a settlement docket. In Robertson County it's called a first appearance docket. In Ashland city and Cheatham County it's called the first docket call and other counties call it, arraignment.

In a Nashville settlement docket, you usually arrive with your attorney. I want to talk with you beforehand. No witnesses are subpoenaed on the first appearance. No witnesses will be there. So case over and you get to just go home? Oh no. If the state makes an offer that you do not want or if they make no offer at all the case will be set for a trial date. Remember this "trial" is not a jury trial. On the "trial" date everybody that needs to prosecute you will be subpoenaed.

TRUE STORY:

I represented someone in Robertson County General Sessions court in Springfield. The victim of the burglary was not in court. My client was upset saying “if I have to be here why don’t they have to be here?” I explained to the defendant that “you are the one being charged so you are ordered to be here”. Remember witnesses are ordered to be in court by a subpoena and a subpoena will only be written when the case is set for a hearing or trial. I am only concerned about you at this moment not the witnesses for the state.

A subpoena is a court order, an order that says you must come to court. If you are not sure what a subpoena means or what to do with it, see your lawyer, if you have one, or if not call my office.

The important thing to remember is go to that next court date. If you see the officer or witness there sit still and wait until your lawyer says something to you. If the docket is called before we talk what should you do? Stand up and say “here your honor.” Say this nice and clear and loud. There should be no reason to say anything else. We want to make sure the judge knows you are there. Mistakes can be made. After all the people who are keeping track of everyone are just that, people.

So don't let the court assume you are not there. Stand up, speak up then shut up.

When you arrive at court and you hear your name called State of Tennessee vs. Mr. Client. Be IN the courtroom. Judge Gale Robinson, of Nashville, is a great guy, great judge, good man to be in front of because he will listen to your case. He will not listen to your case if you are in the hallway talking on your phone or chit chatting with your friend. One of his favorite sayings is "I do not conduct business in the hall way." Do not come in to his court, or any other court for that matter 20 minutes late and say judge I was out in the hallway and I didn't hear my name. Of course you did not hear your name. You were out in the hall. Duh.

What if you do not know where to go or what courtroom to be in? When you bonded out of jail you were given a piece of paper that had your next court date, time and place. Look at the paper and follow instructions carefully. If you are still not sure ask your lawyer or call my office. If you still need help call the court clerk's office. To help you out I have included a link to the county court clerks in Tennessee.

<http://www.tsc.state.tn.us/courts/circuit-criminal-chancery-courts/clerks>.

Is the State ready? Are you in court? Stand up. Say "here judge." If I, your lawyer, am there I will answer for you. You simply stand up and wait for me to say "Judge, Jef Goldtrap for Mr. Client." Then I will say, "Is the state ready?" That means do they have their witnesses in court, ready to prosecute you? Sometimes the District Attorney will say "yes, we're ready judge". Now here's where the fun begins. I will start negotiating and try to settle the case or have a preliminary hearing. The prosecutor might say "no Judge we're not ready". I will now ask the clerk if *subpoenas were executed*.

This means has the State served a subpoena on Ms. Witness or someone else who may be a witness to the crime. In other words, do they have somebody subpoenaed to court? What am I going to do for you now? I am going to say, "I would like to make a motion to dismiss for failure to prosecute." Remember that phrase. It is very important. I am making a motion to dismiss for failure to prosecute. What you are learning here is, the District Attorney's office, is the attorney for the State of Tennessee. They have the duty to prove that you are guilty. That is the only thing they do. They might prove your guilt beyond a reasonable doubt, but

without a witness that will be difficult to do. So no witness? Then the State has failed to prosecute.

“I just want to drop the case.” That’s the victim talking. Can the victim drop the case? Here’s the way I answer that common question... You did not pick up the case and you cannot drop the case. Laws are written by the State. The State prosecutes you and the State can dismiss the case. If you are a witness you cannot just “drop” the case.

What do you do, as a witness or victim and you want to dismiss a case? Remember the District Attorney prosecutes criminal cases. If you are a witness or victim and do not want a case prosecuted tell the District Attorney assigned to your case. To help you Here’s a link to the District Attorney offices for the State of Tennessee to help you find the right person.

<http://www.tndagc.com/offices.php#>.

Were you subpoenaed? Remember a subpoena is a court ORDER. Subpoenas can be very specific to each person and their circumstances. What to do with a subpoena is a very important legal question and far too deep to answer here. Talk to a lawyer.

What if I just do not come to court? There can be two results if you decide to not come to court. The

case could be dismissed if you are the only witness and the prosecutor needs your testimony. If you are that important, and who isn't, the prosecutor will likely ask the judge for a continuance to have some time to try to get you into court. Another result can be a difficult one for you. You could be arrested and have to make bond since you are "material witness."

TRUE STORY:

I represented a man who was the only witness to a crime. He did not volunteer for the job but was the only witness. When he received a subpoena he just ignored it. The prosecutor had him arrested held in jail until he could make a bond and come back to court.

So, have you been subpoenaed? In 20 years of practice it is a rare event to be arrested for not coming to court but it can happen. Again, if you have questions ask your lawyer. Hopefully that would be me.

Now you know a few things about no show witnesses, subpoenas and dismissed for failure to prosecute and how this might affect your case. Continue reading and hopefully I can give you more knowledge so you can help me help you WIN your case and hear:

NOT GUILTY!

Chapter 10

I will be your mouthpiece.

In General Sessions there are 3 pleas that you can make. You can plead guilty. Remember, you have no obligation to plead guilty to anything. They have the job of proving you are guilty of anything.

You could have shot someone in the middle of downtown Nashville with a bus full of nuns from the local convent watching the whole thing, they can describe it and the police and the local TV cameras were filming the whole time. The prosecutor can have a video of the smoke coming out of the gun that you used to shoot them with. With all this you can go in to the court room with straight face, look at that judge and look at that District Attorney and say “I plead not guilty”. You have no obligation to plead guilty to anything.

So “Jef, if I retain you we are never going to plead guilty, right?” Wrong! Remember we talked about negotiations and settlement. Maybe I can negotiate a good end to your case. Suppose you are charged with a DUI and I negotiate for you. The district attorney offers you reckless driving. Under the right circumstances you

might agree to plead guilty. So you can plead guilty or not guilty.

What is going to happen when I enter a plea? The first and best situation is a plea where I know exactly what's going to happen. You plead guilty to this crime and you know you will be on probation or you know you will have a retirement date or you know you will go to jail for this specific amount of time. Whatever solution I have negotiated you will know the outcome.

What if we can't get every detail nailed down? Maybe we can get the crime that we wanted but not the sentence. Sometimes in negotiation I know which crime you are going to plea to so we have achieved something.

The District Attorney and I can agree to a specific sentence range. In other words we agree that the sentence will be no lower than X and no higher than Y. This is what I call a high low. Success in this plea means there is a limited amount of damage that you are going to suffer. After a successful negotiation you and I know what is going to happen in General Sessions. Do you know what is going to happen? Maybe you will hear:

NOT GUILTY!

Chapter 11

I ain't settling, maybe.

Now we are thinking about settlements. When you come to my office you will hear me use the words settlement and negotiation. Over 20 years of practicing many people have talked to me and said, "Jef, I do not want a settle I want a trial." Okay, you have every right to a trial. Remember in General Sessions court you will not get a trial by jury. Settlement is a good word in this court. Don't think settlement is bad and especially do not think settlement means that we are surrendering. As long as I am negotiating you still have some control.

TRUE STORY:

One time I represented a man charged with a serious offence. The DA didn't even make an offer. He did not want to settle anything or discuss the case other than having a trial. The day before trial I called the DA. I said I notice you have not offered me anything. He said "OK, I offer your client 20 years". After laughing I said, see you at trial tomorrow. The next day we began the trial, selected a jury and began hearing the state's evidence.

When we took a little coffee break the DA said “How about 10 years?” I said “How about no?” We continued with the trial, took a lunch break and he said “How about 7”? After chatting with my client the offer was rejected and the trial continued. Right before closing arguments the DA said “How about 2 years”? Sold! Settlements can happen anytime before or during a trial.

TRUE STORY:

I helped a client charged with several serious felonies. Because of his record he was facing 25 or more years for just one of the charges. I negotiated hard and fast because of the large amount of time my client faced. The District Attorney made an offer of 10 years to serve for all three charges. Considering the circumstances that was a great offer! Remember, when I am negotiating *you* are still in control. My client rejected the offer and, against my advice, insisted on a jury trial. The evidence was terrible and the witnesses were strong. After the first trial my client was sentenced to 20 years for one of the charges. With more negotiation I convinced the State to add only a couple more years for the other two charges and drop some of the counts. As long as I am negotiating you are still in control but, listen to your lawyer please.

When I talk about negotiations and settlement, it is an important part of your General Sessions court experience. Anytime that I can settle the case we are still in control. I can still get what you want. As you know, different people want different things.

Some people come in my office and say “Jef I do not want to do a day in jail, I cannot go to jail”. Some people will say “Jef I cannot have a felony conviction. If I am convicted of misdemeanor I can live with that but I cannot be convicted of a felony”. Others will say “Jef, I cannot lose my driver’s license”. Tell me what is most important to you. What I think is good for you or important for you may not be what you think. At the end of the day I represent you. I want to hear your side of the story, your hopes, your goals and your desire for this case. It does not do me or you any good to say I got the best thing for Jef and not you. I want the best thing for my client.

Generally during settlements and negotiations I will talk to the District Attorney General. Often I will talk to the police officer, the probation officer, maybe private witnesses. I may talk to all these people. Please let me do my job. This is what you pay me to do.

TRUE STORY:

Once I was helping a client by negotiating with the DA. I needed to talk to the police officer who arrested my client. I chatted with them about the weekend events, who won the ballgame, even told a lame joke. I then politely asked about what statements my client made the day she was arrested. The officer began to tell me what statements my client made. I did not know my client was standing a couple feet away listening. She yells out, you're a liar, I never said that. You can imagine the negotiations went very bad from that point on. Let me do the negotiating. After all if you were a good negotiator you may have been able to talk yourself out of being arrested in the first place!

I have been able to work some excellent things. I have negotiated charges of felony murder to manslaughter. I have negotiated DUI to reckless driving. I have negotiated felony drug cases to misdemeanor charges.

So "Jef you promised that my case will settle very well, right?" Wrong! I do not promise a specific result. I do promise that I will use my skill and education for your benefit. If you find an attorney who says pay me and I promise a specific plea or settlement will result

you should run, do not walk, away. You will have just been promised something that cannot happen. Do not listen any further after that promise. Leave now.

Back to settlement, I will negotiate with the District Attorney. I will try to settle your case and get everything I can for you because in General Sessions court any plea in settlement will be a misdemeanor. Any plea of guilty is going to involve a sentence of up to 11 months and 29 days. All kinds of things can happen.

Let's take a very common crime such as driving under the influence, DUI. You can be convicted of driving under the influence. You can go to jail for 11 months and 29 days. Many people on the street are going to say that you can only go to jail for 48 hours on a DUI first. Wrong! You can go to jail for 11 months and 29 days. The minimum is 48 hours.

In negotiations I might get them to agree to reckless driving. In negotiations I might get the State to agree to reckless endangerment. I might get the State to agree to dismiss the whole thing. Is that possible? Yes. Is it likely? This all depends on the facts. Each case depends on its own facts. Can I settle a case? Yes.

Should I settle your case? Absolutely. Always
try to settle the case. If not settlement then hopefully:

NOT GUILTY!

Chapter 12

Hearing or trial, hmmm?

Three things can happen in General Sessions court: You can enter a plea, you can have a preliminary hearing, or you can have a trial. We have talked about pleas. Let's talk a little about a preliminary hearing?

A preliminary hearing is a time when the State must put on some, *not all just some*, of their evidence. They do not have to show all the cards in their hand. They have to show enough evidence to reach probable cause. Remember probable cause? If it walks like a duck and quacks, it's probably a duck. Is it likely that a crime happened? Is it likely that you are the individual that committed this crime? That is all it takes. It is not much, but it is something.

As your attorney in a preliminary hearing I can cross examine, ask questions, and get the witnesses locked down on their testimony. That is good, because you do not want their testimony to change later on, perhaps in a jury trial.

In General Sessions, if I have a preliminary hearing and a person says, "I never saw a gun" and then we get to trial and they say "He was holding a gun on

me, I was sober he was holding a six shot revolver and a Smith and Wesson 22 caliber". "What about that gun you didn't see earlier?" I've had people between preliminary hearing and trial suddenly "remember" that they saw guns that they didn't see before. They have forgotten about guns they thought they testified to earlier. All kinds of interesting things happen. In General Sessions you can have a preliminary hearing.

You may say, "Jef, I had a preliminary hearing, but I did not get to testify". In the majority of preliminary hearings the defendant does not testify. I would not want you to testify. In 20 years of helping people with their legal problems I have probably suggested a defendant testify in a preliminary hearing one or two times. There is almost no advantage to my client testifying in a preliminary hearing. I do not recommend it. "But Jef, what about my proof". I do not have any obligation to put on proof in a preliminary hearing. Remember they are looking for probable cause. Not guilt or innocence.

What about a "bench" trial? In General Sessions, you could have a "bench" trial which means by a judge only. In Tennessee we do not have juries in General Sessions. Sometimes that's a good thing. Listen to your

lawyer. Why would you want to have a bench trial? There may be a technical legal reason. Maybe I can get the case dismissed. I have done that before. Perhaps there is a reason you want the case over sooner rather than later. Consult with your lawyer and listen to his or her advice.

TRUE STORY:

I once represented a fellow and I knew that the state charged the wrong crime, yes that does happen. They meant crime “A” but they charged him with crime “B.” When I read what the state said happened it did not meet the requirements of the crime as charged. Since it was a misdemeanor I told the prosecutor we wanted a bench trial. He agreed and we were ready for a trial. I waited till they swore in the first witness they asked the judge to dismiss the case based on that technicality. The judge agreed and my client walked out the door ***NOT GUILTY***.

FREE TIP: To have a General Sessions trial the State, the defendant and their attorney have to agree. If you, your attorney and the prosecutor do not all agree that the case will end with a General Sessions trial then there can be no trial. Why would the prosecutor not agree to a trial? After a General Sessions trial, if we win,

the case is over. Just like that. The State cannot appeal. If we lose a General Sessions trial we can appeal to Circuit/Criminal Court. When we appeal the whole case is tried again as if nothing ever happened in General Sessions court. As you can see the State looks at this as if they might have to try a case twice. The State does not often agree to a bench trial. Hey, nobody wants to do anything twice if they can help it.

In General Sessions you can enter a plea. You can plead guilty, not guilty, guilty in my best interest, or nolo contendere (that's Latin, are you impressed?) which is called no contest. I'll explain each of those so you can get an idea of what we are talking about.

Guilty, means that if the police say that you was smoking a joint at the corner of Dickerson Road and Old Hickory, You say "yep sure was, lit it up, it was good, and I had a great time". You are guilty.

You could say, "I plead guilty in my best interest", which means the police said you were smoking a joint and you had two kilos of cocaine sitting beside you. You might say "Well, I do not think I was smoking a joint but I sure do not want to be charged with 2 kilos of cocaine. In my best interest I will go ahead and plead guilty to simple possession of marijuana."

Instead of guilty you might say 'nolo contendere', or no contest. I probably would say that for you. So don't go out a try to take a class on Latin. Nolo Contendre means you are not fighting anymore. You are not running away from the charge. You are not saying you are guilty and you are not saying you are not guilty, you're just not saying anything. Are you confused yet? The judge will find you guilty so the effect of the plea is the same as entering a guilty plea but you can look in the mirror and say that you did not admit guilt. Although, it is better to hear the judge say:

NOT GUILTY!

Chapter 13

To plea or not to plea.

Well we have talked a lot about pleas, we have talked a lot about procedure, witnesses and subpoenas. I hope you are feeling more knowledgeable about what happens in General Sessions court.

So what happens after General Sessions court? That depends on what happened during General Sessions court. Did you plead guilty? If you plead you are either on probation or your case is disposed of somehow. What happens if you have a preliminary hearing? What happens if you waived or agree to not have your preliminary hearing? Ugh, so many questions.

If you have or waive a preliminary hearing your case is bound over. No, not tied up with a rope. A case is bound over for the next stage of what the case will go through. The next step is the Grand Jury. That sounds bigger than it really is. The Grand Jury is a group of 13 people who meet to review the elements of a case. These people are chosen just like a regular jury. You know, jury duty. It's really a one sided event as you and your attorney do not appear. But it's also not a trial.

Here is a term you'll remember, probable cause. The Grand Jury is looking for enough probable cause to indict you. If you are indicted they will return a true bill. If not then it's a no true bill indictment. Sounds complicated. Let me give you a little understanding of the Grand Jury.

If there is a "true bill" indictment you will be given an arraignment date. In Nashville, Davidson County it could take weeks or even months for an arraignment date. It is very important that you know the day and time. If you are on bond you can ask your bondsman or they might contact you to let you know when to be in court. If you do not make contact with your bondsman ask your lawyer the same question. If all else fails call the court clerk of the county where you face charges.

So now the Grand Jury has returned a "no true bill" indictment. Does this mean the case is over? No! The State prosecutor can simply present the case to another grand jury until they give up or get a "true bill" indictment. You might be asking yourself, "How many Grand Juries do they have?" Remember the Grand Jury is not there to decide guilt or innocence. They only are

looking for probable cause. We will talk more about Grand Juries in the next publication.

The indictment is the way that you get into criminal court. I will talk more about criminal court in future publications. Be looking for those. For now let's go back to what to expect in General Sessions court.

Going before the grand jury is not terrible; it is simply part of the procedure. The grand jury hears the state's side of the case, they hear it from the detective, the arresting officer or a witness and they decide to return an indictment or not return an indictment.

Lastly, the criminal court judge cannot hear your case without an indictment unless you have agreed to a criminal information agreement.

In General Sessions court the prosecutor and I can agree on the type of crime you committed and the sentence you are going to receive. In these situations we can enter into a "criminal information agreement." In this type of agreement you give up the right to a preliminary hearing. When your case comes before a Criminal or Circuit Court your sentence and/or punishment has already been determined. **IMPORTANT:** While we have reached an "agreement",

either party, you or the prosecutor, can withdraw your agreement and go back to the county grand jury.

Did you get out of jail on bond? Most of the time when a case is bound over the judge will say you can remain on the same bond. In 20 years there have been very few times that the judge will say “your case is bound over but I am increasing the bond.” Don’t freak out! This is where I get to do some legal foot work. I would customarily try to get the bond reduced, modified or get the bondsman to agree to keep you on bond. This is usually where everybody panics. Do not panic.

DANGER, DANGER! Rule 32 of the Tennessee Rules of Criminal Procedure says:

- (A) If you are on bond for a felony
- (B) and you “catch a new felony case”
- (C) and if both of them end up in convictions, then you.....

MUST serve those sentences one after the other. That’s consecutive not concurrent. You’ve heard those terms before.

My goal is to help people facing legal troubles. I have included a link for county court clerk’s offices and their telephone numbers.

<http://www.tsc.state.tn.us/administration/judicial-resources/judicial-district-map> for information on court dates or arraignment dates. Don't forget what we are working for, that all important phrase:

NOT GUILTY!

Chapter 14

Suspend my sentence already!

In General Sessions court there are lots of different terms that you may not be familiar with. One of those is a suspended sentence. Do you want to know what that means? Well I am about to tell you.

Suppose you are charged with a crime, maybe an A misdemeanor. You are charged with driving under the influence, simple possession, criminal trespassing or even domestic assault. All of these are crimes that can send you to jail for up to 11 months and 29 days.

Let's say you get convicted of one of those crimes and are sentenced to 11 month and 29 days. What you want to hear is not go to jail, go directly to jail. No! What you really want the judge to say is 11 months 29 days suspended sentence. This is very important to you. You are not going to jail today. In fact, you may never go to jail. In other words, you will not go to jail today, or tomorrow, or maybe the next day.

This next piece of information is math related, ugh. I am going to pretend that today is the 1st of March, 2017. Today in court a judge says "Mr. Client, I am going to sentence you to 11 months and 29 days, but I am going to suspend that sentence." If this were true, on

the 28th of February, 2018, if you have not violated the rules of a suspended sentence and have not picked up any new arrests, or “caught another charge”, well then the case is over. Yee haa!

So think about it this way, the judge says “11 months and 29 days Mr. Client and I will put a little reminder of that in my pocket. I am going to think about that sentence.” So what would make the Judge take that little reminder out of his pocket and “well lookie here Mr. Client owes me 11 months and 29 days”? Well, that would happen if you violate the conditions of the suspended sentence. What are those conditions?

A lot of the time a sentence will be suspended to probation. The Judge will probably remind you that the case and the sentence have not magically disappeared, they are suspended. That means do not get arrested again. Another condition could be a requirement to complete a class. A condition could be that you live at a specific location or not go around a specific person. A condition of probation can be that you report to a probation officer anytime the officer tells you to report. Basically if your probation officer says “jump” you should already be jumping.

Be very aware of your conditions. Follow them specifically, kinda if your life depended on it. If you are not sure what the conditions of your probation are ask your probation officer. If you are still unsure ask your lawyer.

Ok I am going to say this again...money...ok there I said it. A sentence could be suspended on the condition is that you pay the court costs. This is very important! Why? Well I'm glad you asked. Unfortunately many people come to my office and say things like, "I just didn't get around to it" or "I forgot". What happens? You could go to jail!

Didn't pay those court costs? But somehow the sentence was allowed to end. You're thinking "wow I dodged a bullet". No! If you do not pay the court costs within one year the court clerk will notify the Tennessee Department of Safety. You know who they are. They control your driver license. They will suspend your driver license for not paying court costs. In the old days not paying court costs wasn't such a big deal. Now, however, it can have a huge impact. So, pay the costs.

You can't pay the court costs. OMG what then? You need more time to pay court costs. Ask your probation officer, your lawyer or the court clerk about

what is called a Motion to be Declared Indigent regarding court costs. Such a motion is asking the judge to either waive some or all of your court costs. There have been times a judge will forgive your court costs and call your balance \$0. Other times a judge can reduce your balance. You know like giving you a discount. Lastly, a judge can allow a “payment plan”. In any respect the judge cannot read your mind so ask. File a motion.

What have we learned? Follow the conditions of a suspended sentence. Because the whole purpose of this information is so you and I can walk out the same door we walked in. I do not want you to go to jail and, if there’s going to be sentence at all, I want it to be a suspended sentence. Only thing better than that is the phrase:

NOT GUILTY!

Chapter 15

Probation. Don't blow it!

Often a suspended sentence means that you are being put on probation. Sometimes, in General Sessions court, you hear suspended sentence and it does not mean probation. Make sure you understand whether you are or you are not on probation.

If you are on probation, what are the conditions of your probation? If you're on probation you are going to meet with a probation officer. There are many good probation officers in Nashville, Gallatin, Springfield, Ashland City, and Dickson. They are fine probation officers and they are here to help you. They will help you walk through the conditions of probation and help you survive probation.

What do I mean by “help you” through probation? Help means they will tell you the conditions of your probation sentence. They will explain real life ways to complete and succeed while on probation. I have met many probation officers. Most of them do their jobs everyday and take no pleasure in sending you to jail. After all they are human. But keep in mind they have a job to do. So if you violate your probation conditions,

they will issue a warrant and send you to jail. Probation success is largely your decision.

TRUE STORY:

Before I was a lawyer I was a Tennessee State probation officer. Several times I had to write probation violation warrants and send folks to jail. Probationers would say “Goldtrap, you violated my probation.” I would always tell them, “no I just did the paperwork. You violated your probation!” If you do not follow the rules of probation your officer will not violate you because you have already violated yourself. Know the rules and follow the rules.

Probation is a way that you can serve your sentence in the community. It is called an alternative sentence. A judge is thinking about two different things. “I can lock Mr. Client up and I do have a nice place to keep him. It’s not the Hilton Hotel but it will do.” Is the county better off locking him up for the next 11 months and 29 days while feeding, taking care of and housing him? Is the county better off by letting him stay in the community? Should you be put on probation and try to get some help? The judge will be thinking about that. To help make that decision, the judge will consider the law

as found in the Tennessee Code Annotated 40-35-101. So there is a choice: in the community or in jail.

As I have said, probation is an alternative to jail. My argument for my client can be my client needs stay on his job, not go to jail. You do not need to take up space and resources or have the county take care of you as if you are the county's child. You might be required to pay restitution. How are you going to do that if you can't work?

The judge might agree and say "that's a good idea and so I am going to put you on probation". That does not mean the case is dismissed it only means that my client does not go to jail today and, with any luck, not tomorrow, or the next day or the next day.

We are not in Las Vegas so what's luck got to do with it? With any luck I mean IF you do your part and abide by the rules and regulations of probation. That's right you, not me!

One condition of probation may be that you have to report to your probation officer. "Jef, how often do I have to go?" The simple answer is as many times as they want to see you. I know you have a life, but you won't get to live it if you don't report to your probation

officer. Would you rather see your probation officer or the deputy at jail?

When you enter a plea you can be on probation. Remember probation is an alternative to serving time in jail. You have conditional release. The conditions might be community service work like picking up trash or helping clean up at the animal shelter (I'll let you think about what that might be). So you might have to do a job in which you do not get paid, OMG. These are things that you might be required to do. And you might say "Ugh, I ain't doing it". Ok, then go to jail. Life is full of choices. Are you saying you would rather go to jail? Surely you do not want to go to jail. You want probation. So when you hear a judge say "I am going to sentence you to 11 months and 29 days", then the judge says, "and I am going to suspend that to probation," you need to shake hands with your lawyer and tell him or her, thank you very much because you are not in jail. The only thing better would be to hear the phrase:

NOT GUILTY!

In conclusion what do you expect in General Sessions court? You expect to have a lawyer, you expect to fight your case, you expect to listen to your lawyer, listen to their advice and to be diligent and trustworthy with your lawyer.

You expect to show up on time, you expect to conduct yourself like a respectful law abiding citizen, at least during the time you are in court, and you expect to either plead guilty to some plea bargain agreement or you expect to have a hearing or trial in General Sessions court. If you have a preliminary hearing you expect to have your case bound over and go on to the grand jury.

I hope that after all of this you know little bit more about what to expect in General Sessions court. With this knowledge you may have the ability to WIN your General Sessions criminal case and hear a judge say:

NOT GUILTY!