

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO: III-07-B-5

IN RE:
CASE ASSIGNMENTS

WHEREAS: Judicial Rules of Administration 2.215(b)(3) mandates the Chief Judge to develop an administrative plan for the proper, efficient and prompt disposition of cases;

WHEREAS: Rule 2.215(b)(7) of Judicial Rules of Administration requires the Chief Judge to regularly examine the dockets of the courts and take such action to cause the dockets to be made current;

WHEREAS: Broward County is currently experiencing jail overcrowding and is under a Federal District Court Order concerning the same;

WHEREAS; because of limited Judicial, State Attorney, Public Defender, Clerk of Court resources, it is necessary to better utilize the available personnel;

In accordance with the authority vested in the Chief Judge by Rule 2.215 of the Florida Rules of Judicial Administration, it is

ORDERED that:

1) All criminal felony cases shall be equally and randomly assigned, based on case classification to each felony division, except for Divisions FQ, FO, FT, FW, and FX.

2) Overflow cases from each criminal division will be referred to the Case Management Unit, hereinafter referred to as CMU, of the Court Administrator's Office and "pooled" for trial under the terms of this Order.

3) Divisions FA and FP shall be assigned all felony third degree DUIs along with a random assignment of other felony cases as provided in paragraph one (1) above. The third degree DUI felonies shall be in place of, not in addition to, other third degree felonies which would normally be assigned to Divisions FA and FP. The Clerk of Court shall assure Divisions FA and FP receive the same total third degree felonies as every other division. Third degree felony DUIs are prosecuted by special personnel within the State Attorney's Office and for the purposes of this Order shall be considered a State Attorney special unit case subject to referral to the trial unit pursuant to paragraph four (4) below.

4) Division FO shall receive no new case filings.

TRIAL UNIT

WHEREAS, the Seventeenth Judicial Circuit experiences a case backlog, a jail cap and staffing difficulties, these issues require the establishment of a trial unit and case pooling procedure.

- 5) The Clerk of Court shall maintain two (2) divisions, designation FO and FT.
- 6) Division FO and FT shall be trial only units, free from arraignments and all pretrial and most post trial motions.
- 7) The Trial Unit, FO and FT shall concentrate on overflow criminal cases. Referrals will come from criminal divisions FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FP, FV. FW and FX are included on a case by case basis. Priority will be given to special unit cases of the SAO; cases four (4) days duration and longer; and cases in need of special trial setting. Special Unit cases are non-capital homicides, drug trafficking, sexual battery, economic crime, ten-twenty-life, career criminal, vehicular homicide, elderly crime, organized crime, special prosecutions, and felony DUIs and all cases, except capital murder cases pending for seven hundred fifty days or more. The Clerk of Court is directed to transfer all in-custody (per BSO monthly 750-Day List) cases to Division FO when the case becomes pending for in excess of 750 days. Capital murder cases are specifically excluded from this transfer process. The original judge may elect only upon special circumstances, to have the case transferred back to the originating division. The case will be returned to the originating division when appropriate by transfer order from division FO.
- 8) Cases shall be referred by the presiding Judge by completing the "Case Referral for Trial Unit" form. The Clerk of the Court shall deliver the "Case Referral for Trial Unit" forms to the CMU in Room 4860 by the end of the business day and time stamp the form when delivered. The CMU shall refer cases for trial by Divisions FO and FT.
- 9) FO and FT shall receive cases trial ready with no pending pretrial motions (i.e. Motion To Suppress, etc.). Post trial motions for new trial and motions under Criminal Rules of Procedure 3.850 and 3.851 shall be handled by the original trial division, unless the motion challenges a ruling or event that occurred during trial. For example, ineffectiveness of counsel during trial. All other post-trial motions shall be handled by the referring trial division unless required by case law or the Rules of Court.
- 10) Motions under Criminal Rule 3.800 shall be handled by the sentencing judge.
- 11) Violations of Probation or Community Control shall accompany the referred case to FO or FT for disposition. Any defendant placed on probation or community control from FO or FT shall remain with the original assigned referring division.
- 12) Cases assigned to FO and FT shall be for a one hundred twenty (120) day referral period to allow for an orderly scheduling and disposition of the same. The CMU shall maintain a

list and monitor each referred case and return the same to the original division at the expiration of the referral period, if the case has not been disposed of by trial or otherwise.

CASE POOLING SYSTEM

13) Strike Force (Division FS) is hereby abolished and a “Pooling System” for case management is established, effectively immediately. All cases referred to the “Pooling System” shall be maintained by the Clerk of the Court in the original assigned division. Only third degree felonies are subject to referral to the Pooling System. Referrals will be received from the following criminal divisions: FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FP, FV. Felony DUI cases from Division FA and FP shall not be assigned to the Pooling System unless approved by the Chief Judge or Administrative Judge of the Criminal Division. Exceptions may be made on a case by case basis as determined either by the Administrative judge of the Criminal Division or the Chief Judge.

14) Copies of the referral form, “Case Referral for Pooling System” shall be provided in open court to the State, Defense, and defendant if not in custody. The form shall order the attorneys and defendant to be present before a Judge for trial upon one (1) hour notice. The Clerk of Court assigned to the trial division shall assure that the completed form and case file is delivered to the CMU located in Room 4860 by the end of the business day. The Clerk will time stamp the form in the CMU to verify the time and date the form and file are delivered. In the event the originating/referring Judge has a case ready for immediate assignment and a Judge participating in the Pooling System is readily available to hear the case, CMU staff will immediately refer the case to the pooled judge from the originating/referring Judge.

15) The case shall be managed by the Office of the Court Administrator’s Case Management Unit. The CMU will assign the cases to “pooled judges” (any Judge requesting a case available for disposition) and track the case to disposition. Cases shall only be under pooling management for the period in which trial subpoenas are valid. In the event the case is not tried during this trial-ready period, the CMU will return the unresolved cases to the originating/ referring division. The originating/ referring division shall reset that case(s) for the next court event in the originating/referring division and notice all parties.

16) Cases should only be referred to the Pooling System after calendar call and after ascertaining that both the State and Defense are ready for trial. Any motions for continuance subsequent to the referral shall be heard only by the originating/referring division Judge and if the continuance is granted the case will be reset in that trial division. In the event a change of plea is desired prior to case assignment to a Judge in the Pooling System, the change of plea shall be set before the originating/referring Judge. In the event a resolution of the case by negotiated plea is presented subsequent to assignment to the “Pooling” Judge, the Judge may in his/her discretion accept or reject the negotiations. If the Judge accepts the negotiations, the Judge shall proceed to conduct a plea colloquy and proceed to sentence.

In the event the defense desires to plea open subsequent to assignment to the “Pooling” Judge, the Judge shall place on the record that subsequent to the acceptance of the plea, the case will be

returned to the originating/referring Judge for the imposition of sentence. The "Pooling" Judge shall then proceed to conduct a plea colloquy and upon finding that the Defendant's plea was freely, knowingly, and voluntarily entered, shall refer the case to the originating/referring Judge for the imposition of sentence. If a continuance is granted or the case is resolved by plea, the Clerk of the Court shall complete the "Termination of Referral Form" and deliver to the CMU in Room 4860 by the end of the business day. The Clerk will time stamp the form in the CMU to verify the time and date the form is delivered.

17) Any Judge, including County Judge(s), serving as an acting Circuit Judge may draw cases from the Pooling System.

18) Trials for all other cases shall only be assigned by the Administrative Judge of the Criminal Division or Chief Judge. The assignment shall only be valid for the period of time the outstanding trial subpoenas are in force.

DONE AND ORDERED in chambers in Fort Lauderdale, Broward County, Florida, this 4th day of January 2007.

/s/ DALE ROSS
DALE ROSS, Chief Judge