

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

ADMINISTRATIVE ORDER NO:III-07-I-1

IN RE:

CAREER CRIMINAL/  
HABITUAL OFFENDER SECTION

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**WHEREAS**, The Legislature has determined that a substantial and disproportionate number of serious crimes are committed in Florida by a relatively small group of multiple and repeat felony offenders, Section 775.0841, Florida Statutes (2006); and

**WHEREAS**, The Legislature has concluded that priority should be given to the prosecution of career criminals, and the Legislature supports increased efforts by the State to investigate and prosecute career criminals, Section 775.0841, Florida Statutes (2006); and

**WHEREAS**, The Legislature has continued to recognize that priority be given to career criminal cases by its passage of the "Officer Evelyn Gort and All Fallen Officers Career Criminal Act of 1995"; and

**WHEREAS**, The Legislature has empowered agencies within the criminal justice system to employ enhanced management efforts and resources for the prosecution of career criminals, Section 775.0843, Florida Statutes (2006); and

**WHEREAS**, Local Rules, under the umbrella of Article V, Section 20(c)(10) of the Florida Constitution, create divisions or subdivisions within the circuit courts, this Administrative Order, pursuant to Florida Rules of Judicial Administration 2.215 and consistent with prior rulings of the Florida Supreme Court, has the express and exclusive objective of facilitating and advancing the efficient administration of justice in the Broward Circuit Criminal Courts; and

**WHEREAS**, Consistent with Florida Supreme Court holdings, this Order merely creates a section of the circuit court's criminal division, a matter within the broad administrative authority of this circuit's Chief Judge. Case No.: 81,017, In Re: Administrative Order of the Fourth Judicial Circuit - No. 88-21, (Career Criminal Project), unreported, (Fla. 1993); and

**WHEREAS**, The designation of a specialized section, within the criminal division, to hear cases limited to career criminals and/or repeat violent offenders promotes the efficiency of judicial administration.

ORDER

NOW, THEREFORE, pursuant to the authority conferred by Florida Rules of Judicial Administration 2.215 (b)(2), it is ORDERED, effective immediately:

1. All cases pending on or filed after December 2, 1996, in which the State Attorney files a Designation indicating that at least one of the defendants meets the following criteria, shall be randomly assigned to division "FW" and "FX" in the criminal division of the circuit court.

CRITERIA

**VIOLENT CAREER CRIMINAL**

(a) The charged offense is any felony included within enumerated felonies of Florida Statute 775.084(1)(c) 1:

1. Any forcible felony, as described in s. 776.08;
2. Aggravated stalking, as described in s. 784.048(3) and 4;
3. Aggravated child abuse, as described in s. 827.03;
4. Lewd, lascivious, or indecent conduct, as described in s. 800.04;
5. Escape, as described in s. 944.40; or
6. A felony violation of chapter 790 involving the use or possession of a firearm.

AND

(b) The defendant has previously been convicted as an adult three (3) or more times for an offense in this state or other qualified offense that is enumerated in Florida Statute 775.084 (1)(c) 1.

(c) The defendant has been incarcerated in a state prison or a federal prison.

(d) The primary felony offense for which the defendant is charged is alleged to have been committed on or after October 1, 1995, and within 5 years after the conviction of the last prior enumerated felony or within 5 years after the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later.

(e) The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

(f) A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.

(g) In order to be counted as a prior felony for purposes of the operation of this paragraph, the felony must have resulted in a conviction sentenced separately from any other felony conviction that is to be counted as a prior felony.

**HABITUAL VIOLENT FELONY OFFENDER**

(a) The charged offense is a violent felony of the second degree or higher included within the enumerated violent felonies of Florida Statute 775.084(1)(b)1, or its attempt or conspiracy which is a second degree or higher felony, AND

(b) The defendant must have at least one (1) prior conviction for an enumerated violent felony, or its attempt or conspiracy. Florida Statute 775.084(1)(b)1 enumerates the violent felonies as:

1. Arson
2. Sexual Battery
3. Robbery
4. Kidnapping
5. Aggravated Child Abuse
6. Aggravated Assault
7. Murder
8. Manslaughter
9. Unlawful throwing, placing, or discharging of a destructive device or bomb
10. Armed Burglary
11. Aggravated Battery; or
12. Aggravated Stalking

(c) The felony for which the Defendant is charged is alleged to have been committed within Five (5) years of the date of the conviction of the last prior enumerated felony or within Five (5) years of the Defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later; AND

(d) The Defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph; AND

(e) A conviction of a crime necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.

**HABITUAL FELONY OFFENDER:**

(a) 1. The charged offense is a violent felony of the second degree or higher included within the enumerated felonies of Florida Statute 775.084(1)(b)1, or its attempt or conspiracy which is a second degree or higher felony; AND

2. The Defendant has been convicted of at least two (2) prior felonies.

(b) 1. The charged offense is a non-violent Second Degree or higher felony, excluding sale, delivery, purchase or trafficking in controlled substances, and burglaries; AND

2. The Defendant has at least Three (3) prior felony convictions, or Two (2) prior enumerated violent felony convictions as set forth in Florida Statute 775.084(1)(b)1.

(c) 1. The charged offense is a non-violent Burglary of the second degree or higher; AND

2. The Defendant has at least Two (2) prior felony convictions.

(d) The felony for which the Defendant is charged is alleged to have been committed within Five (5) years of the date of the conviction of the defendant's last prior felony: or other qualified offense, or within Five (5) years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later;

(e) The felony for which the defendant is charged, and at least one of the prior felony convictions is not a violation of Florida Statute 893.13 relating to the purchase or the possession of a controlled substance;

(f) The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph; AND

(g) A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.

(h) In order to be counted as a prior felony for purposes of the operation of this paragraph, the felony must have resulted in a conviction sentenced separately prior to the current offense and, if two or more prior felony convictions are required, at least one of the prior felonies must have resulted in a conviction sentenced separately from any other felony conviction that is to be counted as a prior felony.

### CAPITAL MURDER

2. Effective immediately no capital (death) murder cases shall be filed in either divisions "FW" or "FX", but shall randomly assigned in the normal non-special assignment divisions (FA through FK, FP and FY).

On a case by case basis, Judge Gardiner "FW" may transfer her pending capitol murder cases to Division FX (Backman).

## CASES FILED AFTER DECEMBER 2, 1996

3. In cases filed on or after December 2, 1996, in which the State Attorney prior to the defendant's arraignment, files a Designation indicating the state's intent to seek habitualization and its good faith belief that at least one defendant in a specified case meets the criteria set forth in paragraph one above, then upon timely receipt of the state's Designation, the Clerk shall transfer and randomly assign the case to Division "FW" or "FX". The State may establish its good faith belief that a defendant meets the criteria by attaching to the Designation a printout of the defendant's qualifying criminal convictions.

4. Cases shall be transferred to Division "FW" or "FX" after a defendant's arraignment, upon motion by the state setting forth facts to demonstrate (1) that at least one defendant in the case meets the criteria set forth in paragraph one above, and (2) that good cause exists why the state failed to file its Designation prior to defendant's arraignment.

5. Cases shall be transferred out of Division "FW" and "FX" and randomly assigned upon timely motion by the defendant or the state when it is shown by the movant that the defendant does not meet the criteria set forth in paragraph above.

## REASSIGNMENT OF NON-QUALIFYING CASES

6. All cases not qualifying for divisions "FW" and "FX" which are pending or assigned to the judges who will preside over divisions "FW" and "FX", shall be reassigned and distributed equally among divisions prior to the effective date of this Order.

## MULTIPLE CASES

7. If a defendant in a case assigned to Division "FW" or "FX" has one or more felony cases pending in another division, the pending case(s) shall be transferred to Division FW or FX, without the necessity of any Motion or Order.

## WARRANT & CAPIAS CASES

8. All cases in which a warrant or capias was issued but not served prior to December 2, 1996, and where the state has filed a Designation indicating that the defendant meets the criteria set forth in paragraph one above, shall be randomly assigned to Division "FW" or "FX".

## POST-JUDGEMENT MATTERS

9. All post-judgment matters, e.g., reversals of sentence or judgment, motions for post-conviction relief, Writs of Habeas Corpus, etc., resulting from cases assigned to a division "FW" or "FX" judge prior to the effective date of this order shall continue to be handled by that division "FW" or "FX" judge.

VIOLATION OF PROBATION

10. If a defendant in a case assigned to Division "FW" or "FX" has one or more violations of probation or community control cases pending in another division, the pending case(s) shall be transferred to Division "FW" or "FX" without the necessity of any Motion or Order.

However, each division shall be assigned capital cases (excluding sexual capital cases) in the normal felony rotation.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this the 23<sup>rd</sup> day of May 2007.

/s/DALE ROSS  
DALE ROSS, Chief Judge

(Crim. Disk #48)