

1 **SECTION ONE**

2
3 **ADMINISTRATIVE POLICY STATEMENT**

4
5 **1. Enactment of Plan:** Case management and administrative procedures of the
6 Fifth Judicial District will be governed by this Plan. This Plan is submitted
7 pursuant to Ark. Sup. Ct. Admin. Order No. 14. Upon approval of the Arkansas
8 Supreme Court, this Plan carries the force of law.

9 **2. Bi-Annual Review of Plan:** The circuit judges of the Fifth Judicial District
10 shall meet no less than twice a year to review the implementation and efficiency
11 of this Plan. The dates, times and places of said meeting shall be set with the
12 unanimous consent of all of the Circuit Judges in the Fifth Judicial District.

13 **3. Modifications of Plan:** Any future modifications of this Plan shall be in
14 writing and shall require the unanimous consent of all the Circuit Judges in the
15 District, and shall evidence their signatures of approval. Proposed modifications
16 of this Plan shall be the subject of Public Notice with proposed modifications
17 issued in writing at the time of publication of the public notice; there shall be a
18 reasonable amount of time allowed for written public comment; any public
19 comment shall be addressed by the Circuit Judges; and the Circuit Judges shall
20 take final action on any proposed amendments in writing.

1 **SECTION TWO**

2
3 **CASE ASSIGNMENT PROCESS**

4
5 **1. Considerations in determining case assignment and allocation of**

6 **filings:** The process for assignment and allocation of court case filings in the
7 Fifth Judicial District is set forth below. In arriving at this process, several
8 factors have been taken into consideration which include, but are not limited to,
9 the following: Limitations on courtroom space, parking facilities, and
10 accommodations available to the public; Efficient utilization of jury panels; Equal
11 appointment of filings based upon past case filings and time frames peculiar to
12 different types of filings; Limited resources for juvenile filings; The experience
13 and qualifications of each of the Circuit Judges in the District; Limited resources
14 in support staff for different divisions of Circuit Court including, but not limited
15 to Prosecuting Attorneys, Public Defenders, Attorneys Ad Litem, Juvenile Intake
16 Officers, Juvenile Probation Officers, Adult Probation Officers, Social Workers and
17 specialized staff of the Arkansas Department of Human Services; Cost and
18 expense to each of the Counties of the Fifth Judicial District in implementing this
19 Plan.

20 **2. Identity of Circuit Judges in 5th Judicial District:** The Fifth Judicial District
21 Consists of the three counties: Franklin, Johnson and Pope. There are four

1 Circuit Judges who serve the district:

2 Division One - Circuit Judge James Dunham.

3 judgejamesdunham@gmail.com

4 Division Two - Circuit Judge Gordon "Mack" McCain, Jr. - **Administrative Judge.**

5 arjudgedist5div2@gmail.com

6 Division Three - Circuit Judge Ken D. Coker, Jr.

7 judgekcoker@gmail.com

8 Division Four - Circuit Judge Dennis C. Sutterfield.

9 judgedcs@yahoo.com

10 **3. Creation of Subject Matter Divisions:**

11 a. As mandated by Administrative Order 14, this Plan hereby establishes the
12 following subject matter divisions in Circuit Courts of each county of the Fifth
13 Judicial District: Criminal (CR), Civil (CV), Juvenile (JV), Probate (PR) and
14 Domestic Relations (DR).

15 1. Within criminal division, there is also created a specialty court docket
16 or program known as drug court in each County. Specialty court dockets
17 employ a problem-solving approach with a Circuit Judge supervising a
18 treatment plan for a litigant that is designed and implemented by a team
19 of court staff and health professionals.

1 2. Within juvenile division there is also created a specialty court docket
2 or program know as Juvenile Drug Court in Pope County. Specialty court
3 dockets employ a problem-solving approach with a Circuit Judge
4 supervising a treatment plan for a litigant that is designed and
5 implemented by a team of court staff and health professionals.

6 b. For the purpose of this Plan, “probate” means filings relating to decedent
7 estates, trust administration, adoption, guardianship, conservatorship,
8 commitment and adult protective custody; “Domestic Relations” means filings
9 relating to divorce, annulment, maintenance, custody, visitation, support,
10 paternity and domestic abuse.

11 c. The creation of these divisions is for the purpose of judicial administration
12 and caseload management and is not for the purpose of subject matter
13 jurisdiction.

14 d. The creation of these divisions shall in no way limit the powers and the duties
15 of the Circuit Judges.

16 **4. Effect of Assigning a Case to a Division of Circuit Court.**

17 a. Under this Plan, no Circuit Judge has been assigned exclusively to a particular
18 division in a manner that would preclude or limit that Judge from hearing other
19 filings which may come before the Circuit Judge.

1 b. Once a case is filed and a Circuit Judge is assigned pursuant to this Plan, all
2 future matters in that case shall be heard before the same Judge unless there is
3 a transfer or recusal under the processes described in this Plan.

4 **5. Process of Assigning Court Cases to a Division of Circuit Court:** Case
5 assignments under this Plan shall be accomplished by the Court Clerks by using
6 the Contexte System. The System shall be configured to assign cases to Circuit
7 Judges of this Judicial District in a manner which mirrors the respective
8 percentages of case assignments designated below, and which otherwise
9 accomplishes the assignment of cases pursuant to this Plan.

10

1 **SECTION THREE**

2
3 **CASE ASSIGNMENTS TO CIRCUIT JUDGES**

4
5 **1. CASE ASSIGNMENTS TO DIVISION ONE.** The Circuit Judge for Division One
6 of the Fifth Judicial District shall be assigned the following case filings:

7 **a. Criminal Cases (CR):** 100% of all Criminal (CR) filings in Pope, Johnson, and
8 Franklin Counties.

9 1. The Division One Circuit Judge has the primary responsibility and authority
10 for the criminal justice system in the Fifth Judicial District. The Division One
11 Judge shall supervise all phases of the criminal justice system, and shall arrange
12 for the regular participation of judicial officers in the following proceedings:
13 Probable cause and pretrial release determinations; search warrant applications
14 and returns; preliminary hearings in Petition to Revoke Supervision cases;
15 requests for miscellaneous hearings in criminal justice matters.

16 2. The Division One Judge shall maintain forms and develop standardized
17 procedures and practices, which shall appear on the website for the Division One
18 Judge. An interested party should be able to generally understand the
19 standardized procedures and practices of the criminal justice system in the Fifth
20 Judicial District by reference to that information. The Division One Judge shall,
21 with the participation and consent of the District Judges and Circuit Judges of the

1 Fifth Judicial District, establish a regular schedule for such hearings in
2 consultation with the affected participants (e.g., law enforcement agencies, court
3 clerks, Prosecuting Attorneys, Public Defenders, lawyers who regularly practice
4 in the Fifth Judicial District, etc.). The Division One Judge shall maintain and
5 publicize the usual forms and schedules of such hearings on a website
6 designated as such and available to the public and persons who regularly
7 participate in such cases.

8 **b. Domestic Violence Cases (DR):** Any case other than one arising under the
9 Juvenile Code (which is assigned to Division Three) in which there is a
10 suggestion that domestic violence is or may be a factor in the judgment of the
11 Judge of the Division to which the case is originally assigned shall be transferred
12 from the Division to which the case is originally assigned to Division I. For
13 example, a civil case seeking an injunction; or a domestic relations case; or a
14 probate case such as a guardianship; in any such cases in which there is a
15 suggestion that domestic violence is or may be a factor as described above, and
16 which case begins in Division Two, Three, or Four, the case shall be transferred
17 to Division One upon the determination of the need to transfer. That
18 determination is in the discretion of the transferring Judge, in consultation with
19 the Division One Circuit Judge. Any disagreement regarding whether to transfer

1 the case shall be decided by the Administrative Judge prior to entry of the Order
2 of Transfer.

3 **c. Pope County Domestic Abuse Act Cases (DR):** 100% of Pope County
4 domestic relations cases in which there is a claim for relief under the Arkansas
5 Domestic Abuse Act, Ark. Code Ann. §9-15-101 et. seq. shall be assigned to
6 Division One.

7 **d. Civil Cases (CV):** All civil property forfeiture actions filed pursuant to Ark.
8 Code Ann. §5-64-505 or otherwise designated as property forfeitures on the
9 cover sheet submitted to the Clerk at the time of filing.

10 **e. Transfer of existing Civil (CV) Cases from Division One to Division Three
11 and Division Four:** On January 1, 2022, the existing and open civil cases
12 assigned to Division One shall be transferred to Divisions Three and Four as if
13 they had been originally assigned to those Divisions. One-half ($\frac{1}{2}$) of such cases
14 shall be assigned to Division Three, and one-half ($\frac{1}{2}$) of such cases shall be
15 assigned to Division Four. The circuit clerk shall randomly assign these open
16 cases to each Division as provided above. The Division One Judge may exempt
17 individual cases from such reassignment by notice to the Clerk prior to
18 reassignment (e.g., cases in which pretrial proceedings have occurred; cases that
19 were transferred to Division One due to an earlier transfer or recusal; etc), in

1 which instance the cases exempted shall remain assigned to Division One.

2

1 **2. CASE ASSIGNMENTS TO DIVISION TWO.** The Circuit Judge for Division Two
2 of the Fifth Judicial District shall be assigned the following case filings:

3 **a. Domestic Relations Cases (DR):**

4 1. Pope County: 60% of domestic relations filings, except 100% of Pope County
5 domestic relations cases in which there is a claim for relief under the Arkansas
6 Domestic Abuse Act, Ark. Code Ann. §9-15-101 et. seq. which shall be assigned
7 to Division One.;

8 2. Johnson County: 60% of domestic relations filings;

9 3. Franklin County: 80% of domestic relations filings.

10 **b. Probate Cases (PR):**

11 1. Pope County: 100% of probate filings;

12 2. Johnson County: 100% of probate filings;

13 3. Franklin County: 100% of probate filings.

14 **c. Criminal Cases (CR):**

15 1. Johnson County Drug Court: All Drug Court filings in Johnson shall be heard
16 in Division Two.

17 2. Franklin County Drug Court: All Drug Court filings in Franklin County shall be
18 heard in Division II.

19 3. Miscellaneous Criminal Hearings: Shared responsibility with other judicial

1 officers regarding applications for search and arrest warrants; probable cause
2 and pretrial release hearings; and other miscellaneous hearings in all counties
3 within the Fifth Judicial District.

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1 **3. CASE ASSIGNMENTS TO DIVISION THREE.** The Circuit Judge for Division
2 Three of the Fifth Judicial District shall be assigned the following case filings:

3 **a. Juvenile Cases (JV):**

4 1. Pope County: 100% of Juvenile Division filings, including Juvenile Drug Court.

5 2. Johnson County: 100% of Juvenile Division filings.

6 3. Franklin County: 100% of Juvenile Division filings.

7 4. Juvenile Court Administration: The Division Three Circuit Judge shall have
8 the responsibility to be the primary administrator of the juvenile court system
9 throughout the Judicial District. Those duties shall include, but not be limited to,
10 the hiring and supervision of the juvenile intake and probation officers as well
11 as other juvenile support staff, the administration of special juvenile programs,
12 the budgets of the juvenile support systems and any other duties previously
13 delegated to juvenile judges under the laws of the State of Arkansas.

14 **b. Civil Cases (CV):**

15 1. Pope County: 30 % of all civil filings.

16 **c. Criminal Cases (CR):**

17 1. Miscellaneous Criminal Hearings: Shared responsibility with other judicial
18 officers regarding applications for search and arrest warrants; probable cause
19 and pretrial release hearings; and other miscellaneous hearings in all counties

1 within the Fifth Judicial District.

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1 **4. CASE ASSIGNMENTS TO DIVISION FOUR.** The Circuit Judge for Division
2 Four of the Fifth Judicial District shall be assigned the following case filings:

3 **a. Domestic Relations Cases (DR):**

4 1. Pope County: 40% of domestic relations filings, except 100% of Pope County
5 domestic relations cases in which there is a claim for relief under the Arkansas
6 Domestic Abuse Act, Ark. Code Ann. §9-15-101 et. seq. which shall be assigned
7 to Division One.

8 2. Johnson County: 40% of domestic relations filings.

9 3. Franklin County: 20% of domestic relations filings.

10 **b. Civil Cases (CV):**

11 1. Pope County: 70% of civil filings.

12 2. Johnson County: 100% of civil filings.

13 3. Franklin County: 100% of civil filings.

14 **c. Criminal Cases (CR):**

15 1. Pope County: 100% of Drug Court filings in Pope County.

16 2. Miscellaneous Criminal Hearings: Shared responsibility with other judicial
17 officers regarding applications for search and arrest warrants; probable cause
18 and pretrial release hearings; and other miscellaneous hearings in all counties
19 within the Fifth Judicial District.

1 **SECTION FOUR**

2
3 **CASELOAD ESTIMATES**

4
5 The following are "Caseload Estimates" required by Administrative Order
6 14 (3) (b), and are based upon 2020 data provided by AOC:

7

CASE TYPE	TOTAL	DIV. 1	DIV. 2	DIV. 3	DIV. 4
CIVIL CASES	902	54	0	254	594
CRIMINAL CASES	2,654	2,654	0	0	0
DOMESTIC CASES	1,572	140	937	0	495
JUVENILE CASES	437	0	0	437	0
PROBATE CASES	728	0	728	0	0
DRUG COURT *	0	0	0	0	0
TOTAL CASES	6,292	2,848	1,665	691	1,089
	100%	45%	26%	11%	18%

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16 * DRUG COURT CASES ARE A SUBSET OF CRIMINAL CASES. ALL SUCH
17 CASES ARISE AS A CRIMINAL CASE. UPON CONCLUSION OF THE CRIMINAL
18 PROCEEDINGS, THE CASE CONTINUES AS A DRUG COURT CASE WITHOUT A
19 NEW CASE-TYPE DESIGNATION. DRUG COURT CASES ARE DESIGNATED AS
20 "CR" CASES, AND ARE ALSO INCLUDED IN CRIMINAL CASES ABOVE. WHEN A

1 CRIMINAL CASE IS TRANSFERRED TO DRUG COURT SUPERVISION FOLLOWING
2 THE ENTRY OF A SENTENCING ORDER IN DIVISION ONE, THE CASE IS THEN
3 THE SUBJECT OF A TRANSFER ORDER TO THE PROPER DIVISION, EITHER
4 DIVISION 2 IN JOHNSON AND FRANKLIN COUNTIES, OR DIVISION 4 IN POPE
5 COUNTY.

6

1 complete the form provided by the Administrative Office of the Courts to request
2 a Special Circuit Judge. The Clerk shall send the form, along with documentation
3 that all Circuit Judges in the Judicial District have been recused, to the Chief
4 Justice requesting that an assignment be made. Circuit Judges shall not be
5 involved in the process of reassignment due to a recusal other than to accept the
6 case or disqualify from the case. Documentation of recusals and all logistics
7 regarding reassignment shall be handled by the Circuit or County Clerk as an
8 administrative function. After notifying the Clerk's office of the need for
9 reassignment due to a recusal, a Circuit Judge shall take no further action in the
10 case other than to direct the attorneys and self-represented litigants to contact
11 the Clerk's office regarding reassignment. If the case management system lacks
12 the capability to reassign a case as detailed above, the Clerk's office shall be
13 responsible for creating a process to randomly reassign the case. It is the
14 responsibility of the Clerk to document the reassignment process in each case to
15 ensure that the random selection of the Circuit Judge can be independently
16 verified.

17 **b. Transfer of case to another Division:** At any time the Circuit Judge to whom
18 a case is assigned may transfer the case to another Division in order to achieve
19 the interests of this Plan or in the interests of justice.

1 **c. Entry of Order or Judgment on Exchange:** Any Circuit Judge of the Judicial
2 District may enter Orders or Judgments for another Circuit Judge of the Judicial
3 District with the consent of the Circuit Judge to whom the case is assigned. In
4 that event, the Circuit Judge executing the Order or Judgment shall sign the
5 Order as follows: “[Signature of Circuit Judge entering the Order or Judgment]
6 on exchange for [Name of Circuit Judge to whom the case is assigned].”

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8

1 **SECTION SIX**

2
3 **REQUEST FOR ASSIGNMENT-TEMPORARY**

4
5 **INABILITY TO SERVE (DAY ASSIGNMENTS)**

6
7 Circuit Judges shall configure their calendars so that they are available to
8 hear all matters and sign all orders in cases assigned to them. Circuit Judges are
9 encouraged to use all available technology to fulfill these duties.

10 While it is preferable for Circuit Judges to hear all cases assigned to them,
11 there may be times when the assigned Circuit Judge is temporarily unavailable.
12 In the event the assigned Circuit Judge is temporarily unavailable, he or she may
13 request another Circuit Judge from the Judicial District preside over their cases.
14 The parties shall be promptly notified of the temporary absence of the assigned
15 Circuit Judge and of the Circuit Judge who will preside over the case instead. A
16 party may request a continuance to allow the assigned Circuit Judge to preside
17 over the case and any continuance for this reason shall be granted, unless it is a
18 time sensitive hearing under state or federal law. In criminal matters, a
19 defendant's request for continuance shall toll the intervening time for purposes
20 of speedy trial until the assigned Circuit Judge takes further action in the case.

21 Additionally, an order shall be entered memorializing the exclusion of this
22 time period. If the assigned Circuit Judge determines that all Circuit Judges are

1 unavailable to preside over the cases scheduled for the day(s), the assigned
2 Circuit Judge shall request the Clerk to complete the “Form Requesting Chief
3 Justice to Assign a Special Judge.” The clerk shall send the form to the Chief
4 Justice of the Arkansas Supreme Court for the Chief’s consideration. When a
5 Circuit Judge presides over cases assigned to another Circuit Judge or when a
6 Special Circuit Judge is assigned by the Chief Justice, the cases shall not be
7 permanently reassigned.

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1 **SECTION SEVEN**

2
3 **SPECIALTY COURTS**

4
5 **Adult Drug Courts:**

6
7 The Fifth Judicial Drug Court provides Drug Court accessibility to all three
8 counties with the District. The statutory authority for this program is Ark. Code
9 Ann. §16-98-301 *et. seq.*

10 The Pope County Drug Court is comprised of Pope County and headed by
11 the Honorable Dennis C. Sutterfield, Circuit Judge for Division IV of the Fifth
12 Judicial District.

13 The two remaining counties, Johnson and Franklin, are served by a drug
14 court program headed by the Honorable Gordon “Mack” McCain, Jr. These two
15 separate drug court programs are provided separate staffs.

16 Judge Sutterfield conducts drug court in Russellville at the Pope County
17 Courthouse. Judge McCain conducts drug court at the Johnson County
18 Courthouse.

19 In addition to regular drug court dockets, there are sanctions dockets,
20 staffings and drug court team meetings held on a regular basis.

21 The drug court programs utilize both post-adjudication and
22 pre-adjudication processes. The programs are funded by the Department of

1 Community Correction which provides a counselor and probation officer in
2 conformity with Arkansas law. The programs are conducted in conformity with
3 the applicable Drug Court statutes and laws of the State of Arkansas and
4 complies with the law regarding assessment of fines, fees, court costs and
5 probation fees.

6 The administration of the Drug Court is a team effort involving the
7 Prosecuting Attorney's Office, Public Defenders Office, the respective Judges and
8 their staffs and provided employees of the Department of Corrections. The
9 programs are structured by phases and performance standards which include,
10 but are not limited to, regular drug testing, employment requirements, meeting
11 requirements, counseling and cooperation with rehabilitative efforts.

12 The combined goals of the drug courts are to assist drug court participants
13 in becoming drug free, productive citizens who will be positive influences to
14 their families and communities.

15 **Pope County Juvenile Drug Court:**

16 The Pope County Juvenile Drug Court Program authorized by Ark. Code
17 Ann. §16-98-301 *et. seq.* has been in operation since 2011. Court sessions are
18 conducted on the third Thursday of every month in the Courtroom on the second
19 floor of the Pope County Courthouse in Russellville, Arkansas. The program uses

1 a post-adjudication process and is open to all juveniles who have committed
2 eligible offenses and are recommended by the prosecuting attorney. The
3 program policies and practices are governed by the Juvenile Drug Court
4 Participant Handbook as developed by the drug court team. All practices and
5 policies are in conformance with State Drug Court statutes and all applicable
6 laws involving the assessment of court costs and probation services fees. The
7 Program receives staff funding from the State of Arkansas.

8 The members of the drug court team are composed of the following
9 members: circuit judge, prosecuting attorney, public defender, juvenile drug
10 court coordinator, education representatives, and the community based drug
11 court treatment staff.

12 Team members participate in monthly staffing's to ensure that all available
13 resources are utilized and participant's needs are met in a timely manner.

14

15

1 **SECTION EIGHT**

3 **STATE DISTRICT COURT JUDGES**

5 Participating State District Judges --- Assignment and Allocation of Cases

6 The state district judges participating in referrals from the circuit court pursuant to Administrative Order No. 18 include:

Name	District Court Judicial District	Assignment and Allocation of Cases
Judge Sarah E. Capp	7th Judicial District	100% Criminal Referrals in Johnson County
Judge Donald W. Bourne	9th Judicial District	100% Criminal Referrals in Pope County

11 Criminal Referrals in 7th Judicial District -- Johnson County Only

12 The following duties are referred with respect to an investigation or
13 prosecution of an offense lying within the exclusive jurisdiction of the
14 circuit court:

- 15 Issue Search Warrant Pursuant to Rule 13.1
- 16 Issue Arrest Warrant Pursuant to Rule 7.1 or A.C.A. §16-81-104
- 17 Issue Summons Pursuant to Rule 6.1
- 18 Reasonable Cause Determinations Pursuant to Rule 4.1 (e)
- 19 Conduct First Appearance Pursuant to Rule 8.1
- 20 Appoint Counsel Pursuant to Rule 8.2
- 21 Inform Defendant Pursuant to Rule 8.3
- Accept Plea of "Not Guilty" or "Not Guilty by Reason of Insanity"
- Conduct Pretrial Release Inquiry Rules 9.1, 9.2 and 9.3
- Conduct Preliminary Hearing Pursuant to A.C.A. §16-93-307

20 **Digital Audio Recording Equipment**

21 **Is digital audio recording equipment utilized to make a verbatim record of matters referred from the circuit court?**

- Yes
- No

1 **Criminal Referrals in 9th Judicial District -- Pope County**

2 **The following duties are referred with respect to an investigation or prosecution**
3 **of an offense lying within the exclusive jurisdiction of the circuit court:**

- 4 **Issue Search Warrant Pursuant to Rule 13.1**
5 **Issue Arrest Warrant Pursuant to Rule 7.1 or A.C.A. §16-81-104**
6 **Issue Summons Pursuant to Rule 6.1**
 Reasonable Cause Determinations Pursuant to Rule 4.1 (e)
 Conduct First Appearance Pursuant to Rule 8.1
 Appoint Counsel Pursuant to Rule 8.2
 Inform Defendant Pursuant to Rule 8.3
 Accept Plea of “Not Guilty” or “Not Guilty by Reason of Insanity”
 Conduct Pretrial Release Inquiry Rules 9.1, 9.2 and 9.3
 Conduct Preliminary Hearing Pursuant to A.C.A. §16-93-307

Digital Audio Recording Equipment

Is digital audio recording equipment utilized to make a verbatim record of matters referred from the circuit court?

- Yes**
 No

1 **SECTION NINE**

2
3 **CERTIFICATION OF MEETING, VOTE, AND SUBMISSION**

4
5 The foregoing Administrative Plan of the 5th Judicial District is hereby
6 submitted to the Arkansas Supreme Court for approval on date below indicated;
7 the Circuit Judges have met and each has had an opportunity to be heard; and
8 this Plan has been unanimously approved by the Circuit Judges of the 5th Judicial
9 District as demonstrated by the signatures of each below.

10 Dated: December 1, 2021.

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12 

13 _____
14 James Dunham
15 Circuit Judge
16 Division One

17
18 

19 _____
20 Gordon "Mack" McCain, Jr.
21 Circuit Judge
22 Division Two – Administrative Judge

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25 _____
26 Ken D. Coker, Jr.
27 Circuit Judge
28 Division Three

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31 _____
32 Dennis C. Sutterfield
33 Circuit Judge
34 Division Four

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