

Case Management and Administrative Procedure Plan for the

12th Judicial District

EFFECTIVE JANUARY 1, 2020

Pursuant to Administrative Order this plan is submitted to the Supreme Court by the Circuit Judges of the 12th Judicial District. At the present time there are six (6) Circuit Judges, to wit: Annie Powell Hendricks, Leigh T. Zuerker, Shannon Blatt, Stephen Tabor, James Cox and J. Michael Fitzhugh.

Overview of the District

The 12th Judicial District is comprised of Sebastian County. Sebastian County has two courthouses, one in Fort Smith and one in Greenwood. The two courthouses are approximately eighteen miles apart. All of the Circuit Judges have their permanent chambers in Fort Smith.

The Courts Building in Fort Smith houses all six (6) circuit courts, three (3) district courts, Circuit and District Court Clerks and the prosecuting attorney's office. There are three (3) circuit courtrooms with jury boxes. The two (2) Circuit Judges that primarily do domestic and probate do not have jury boxes but are capable of modification if needed. The Circuit Judge that handles juvenile matters does not have a jury box.

There is one District Court Judge, Circuit Court Clerk and District Court Clerk office in Greenwood. In the courthouse at Greenwood there is one large circuit courtroom with a jury box and a very small courtroom with no jury box which is used on occasion if the main courtroom is in use.

Case Assignment and Allocation

It is the purpose of this plan to ensure that the available resources and personnel are most efficiently utilized so that all cases which are properly filed in the Circuit Court of the 12th Judicial District are promptly heard and decided. The Circuit Judges in this district believe that the designation of certain divisions to primarily, but not exclusively, hear certain types of cases creates flexibility that will increase the efficient utilization of resources and ensure the prompt disposition of all matters that come before the court. This determination takes into consideration the specialized knowledge of the various judges, and the fact that the 12th Judicial District is a single county district. Although Sebastian County has two county seats a minimum of travel is necessary by the judges as the two county seats are located only eighteen (18) miles apart and approximately eighty-five percent (85%) of the cases filed in Sebastian County are filed and heard in the Fort Smith District.

The Sebastian County Circuit Clerk randomly assigns cases to the various divisions as set out below:

Division I (Judge Stephen Tabor): Thirty-three percent (33%) of criminal cases, fifty percent (50%) of drug court cases, and thirty-three percent (33%) of civil cases; one hundred percent (100%) of newly set up Veterans Court cases;

Division II (Judge Annie Powell Hendricks): Fifty percent (50%) of the domestic relations cases, forty-five percent (45%) of probate cases, and thirty-three percent (33%) of dependency neglect cases;

Division III (Judge Shannon Blatt): Fifty percent (50%) of the domestic relation cases, forty-five percent (45%) of probate cases, and thirty-three percent (33%) of dependency neglect cases;

Division IV (Judge Leigh T. Zuerker): Thirty-four percent (34%) of dependency-neglect cases and all other juvenile cases;

Division V (Judge J. Michael Fitzhugh): Thirty-three percent (33%) of the criminal cases, fifty percent (50%) of the drug cases, and thirty-three percent (33%) of the civil cases;

Division VI (Judge James O. Cox): Thirty-four percent (34%) of criminal cases other than drug court cases, thirty-four percent (34%) of civil cases, and ten percent (10%) of probate cases.

The Circuit Clerk has a separate numbering system for each division of the circuit court. The Clerk assigns cases to divisions handling the same types of cases on a random drawing basis. Under no circumstances does the Clerk allow the numbering system to be manipulated by attorneys or other persons so that such attorneys or persons can select a certain judge to hear a particular case. The Clerk does not advise attorneys or persons of the number of the last case filed or what the number of the next case filed will be. Ordinarily, judges will hear only those cases assigned to them pursuant to this selection process.

Should the need arise for whatever reason, each judge will accept an assignment of any type of case whether or not it is the type of case normally assigned to that judge's division. Further, all judges conduct an equal number of probable cause hearings in criminal cases which are necessary to be held on weekends, and the judges which normally hear domestic relations, probate, and juvenile cases will make themselves available to sign arrest / search warrants if the judges that normally hear criminal matters are not readily available.

CASELOAD ESTIMATE

According to Bettina Toth with the Office of Research and Justice Statistics our case filings in 2018 reflect there were 1797 domestic relations cases filed and 948 probate. There are two judges primarily handling these cases. There were 4007

criminal case filings and 1824 civil case filings. There are three judges handling these cases. There were 1410 juvenile related cases filed. There were 253 Drug Court cases handled by the two Drug Court judges. There were 29 Veteran's Court cases handled by one judge. There were 1559 Petitions to Revoke filed handled by our three (3) criminal judges.

The Administrative Judge has discussed the caseload with each judge and they are all satisfied with their caseload. However, if it is decided by one or more of the judges that a significant imbalance exists resulting in an adverse effect the matter will be addressed by all judges.

RECUSAL, REASSIGNMENT OF CASES AND REQUESTS FOR THE
ASSIGNMENT OF A JUDGE BY THE CHIEF JUSTICE

Consistent with the requirements of Administrative Order Nos. 1 and 16 the Circuit Judges for the 12th Judicial District provide the following process for handling of recusals, the reassignment of a case, and requests for the assignment of a judge by the Supreme Court.

A judge or judges recusing from a case shall file an Order of Recusal with the Circuit Clerk. Said judge or judges shall take no further action in the case other than to notify the attorneys or pro se litigants of the recusal and to accommodate any newly assigned judge in carrying out the assignment.

As heretofore set forth the Circuit Judges in this district have been designated to hear certain types of cases, i.e. probate, civil, criminal, etc. There are three (3) Circuit Judges that hear criminal and civil cases. There are two (2) Circuit Judges that hear domestic relation cases. There are three (3) that handle probate cases and three (3) that hear juvenile cases. When one judge in any designated case category recuses, the

case will then be assigned to one of the other judges assigned to that case category. If all judges in a case category recuse the case will then be assigned to any remaining Circuit Judges in the District. If all six (6) Circuit Judges recuse, then the Administrative Judge shall write a letter to the Chief Justice asking that an assignment be made.

Said letter shall include:

1. that all the judges in the district have recused;
2. the type of case involved;
3. the facts or law in dispute;
4. whether a temporary hearing is scheduled or necessary;
5. the estimated time to hear the matter;
6. the names of the attorneys or pro se litigants involved; and
7. any other pertinent information that would assist the Chief Justice in making an assignment.

The circuit judges most familiar with the case shall assist the Administrative Judge in drafting said letter.

SPECIALTY DOCKETS

DRUG COURT

A. The 12th Judicial District has had a Drug Court since 2002. Following arrest, eligible Defendants are offered a choice between Drug Court and prosecution on the pending charges. If they opt for Drug Court the Defendant will enter a guilty plea to the charge. The case will be transferred to Drug Court and upon successful completion of the program their case will be expunged. If during Drug Court tenure they commit enough violations they will be expelled from Drug Court, their case will be transferred back to Circuit Court Criminal and a Petition to Revoke will be filed.

While in Drug Court participants are required to conform to Probation Office rules and other specific Drug Court related terms and conditions. The participants are under the direct supervision of a Drug Court counselor and probation officer. Supervision

includes unannounced home visits and random drug testing. Throughout their participating in Drug Court they will continue to be represented by counsel.

The participant's length in the program is determined by each participant's progress; however, the program cannot be completed in less than two (2) years.

Final determination of entry into the program is made by the Drug Court team consisting of a judge, prosecuting attorney, public defender, probation officer / counselor, drug court coordinator. The prosecuting attorney has the final approval power for admission.

The program is a court-supervised comprehension treatment program for nonviolent offenders. It is voluntary and includes regular court appearances, supervision, treatment, drug testing, individual / group counseling and substance abuse education.

B. Our drug court is based on the statutory authority set forth in A.C.A. § 16-98-301 through 307.

C. The program conforms to all applicable sentencing laws, including fines, fees, its costs and probation assessments.

D. The drug court team consists of two (2) circuit judges, prosecuting attorney, public defender, probation officer / counselor, law enforcement, drug court coordinator and her assistant.

All of these individuals work on a voluntary basis. The team meets every Friday for discussion of those participants appearing in Drug Court that day.

E. At the time of plea fines, court costs, public defender fee and restitution are imposed and made a part of the judgment. During the participants tenure he/she is

further required to pay drug court, DCC fees and probation fees. Most, if not all, of these fees are collected by the prosecuting attorney's office.

VETERANS COURT

In addition, the Twelfth Judicial District established a Veterans Treatment Court ("VCT") in 2015. Participants in the program are identified as follows: At the time of their booking into the Sebastian County Adult Detention Center each person arrested is asked a series of questions to determine if they have served in the United States Military. Those names are forwarded to the Veterans Administration, who determines if the individual is eligible for Veterans Administration benefits. If so, those names are forwarded to the Sebastian County Prosecuting Attorney for further determination if that individual is an appropriate candidate for the VTC. If so, the defendant is offered a choice between VTC and prosecution on the pending charges. If they opt for VTC the defendant will enter a guilty plea to the charge, which will then be transferred to VTC. Upon successful completion of the program the charges will be dismissed and the arrest expunged. If during their participation in VTC the defendant commits further violations they may be expelled from the court and their case remanded back to Circuit Court for filing of a Petition to Revoke.

While in VTC participants are required to conform to Probation Office rules and other specific related terms and conditions. The participants are under the direct supervision of the VTC Judge, a Probation Officer and counseling staff of the Veterans Administration. Supervision includes unannounced home visits and random drug testing. Throughout their participation in VTC the defendants will continue to be represented by counsel. The participant's length in the program is determined by their

individual progress. However, the program cannot be completed in less than two (2) years.

Final determination of entry into the program is made by the Veterans Treatment Court team consisting of the presiding Judge, Prosecuting Attorney, Public Defender, Probation Office, Veterans Administration personnel, Drug Court Coordinator and law enforcement representatives. The Prosecuting Attorney may veto any potential candidate for admission.

The program is a court-supervised comprehensive treatment program for eligible veterans suffering from one of three conditions: (a) drug addiction, (b) post-traumatic stress disorder, (c) mental health issues other than PTSD. The program is voluntary and includes regular court appearances, supervision, treatment, drug testing, individual and group counseling sessions and substance abuse education as needed.

The VTC is established under the authority of Arkansas Law and is administered in compliance with ACT 895 of 2015 as well as Administrative Orders and per curium opinions of the Arkansas Supreme Court related to specialty courts. The Court complies with all certification requirements established by the Specialty Court Program Advisory Committee of the Arkansas Supreme Court. In addition, the program complies with all applicable sentencing laws in its operation.

VTC is held each Friday afternoon, preceded by staffing for the cases to be heard in court that day. During a participant's tenure in VTC they are to pay court fees, ACC fees, probation fees, restitution, fines and court costs. The program consists of four (4) phases as well as a period of after-care.

STATE DISTRICT COURT JUDGES

State District Court Judges do not preside over any circuit court matter other than to participate in the rotation of reviewing weekend arrest reports for probable cause and signing of search and/or arrest warrants.

PLAN REVIEW

This plan shall be reviewed at least once annually by the circuit judges in this district. Any judge at any time may request a meeting of the judges in the district to review details of the plan's operation. Changes in the plan will be made if the majority of the circuit judges in the district vote to make the suggested changes. Although changes in the plan will be made by majority vote, it is recognized by all the undersigned judges that a sincere effort should be made to keep the case load and amount of time and effort necessary to dispose of the caseloads of the various judges as equal as possible. It is further recognized that the problems of any one division should be considered a problem of all of the divisions and that an effort by all judges should be made to solve any problems of any division.

DISTRICT COURT PLAN

The District Court Plan for Fort Smith and Greenwood is attached.

1-30-19

Date



Stephen Tabor
Circuit Judge, Division I

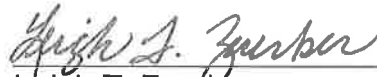


Annie Powell Hendricks
Circuit Judge, Division II

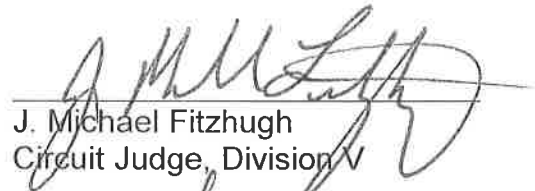


Shannon Blatt
Circuit Judge, Division III

Respectively submitted,



Leigh T. Zuerker
Circuit Judge, Division IV



J. Michael Fitzhugh
Circuit Judge, Division V



James O. Cox
Circuit Judge, Division VI



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J. MICHAEL FITZHUGH

CIRCUIT JUDGE – DIVISION V
TWELFTH JUDICIAL DISTRICT

CHARLENE WADE DALE
TRIAL COURT ASSISTANT

BILL MAULDIN
COURT REPORTER

May 14, 2019

Chief Justice John Dan Kemp
Justice Building, 625 Marshal Street
Little Rock, AR 72201

Re: Amendment to Administrative Plan

Dear Chief Justice Kemp,

Due to the appointment of a new Circuit Judge, effective July 1, 2019, we are amending our case load assignment as follows:

Division I (Judge Stephen Tabor): 40% of all Criminal cases, 50% of all Petitions to Revoke, and 50% of Drug Court and all Veterans Court.

Division II (Judge Annie Powell Hendricks): 50% of Domestic Relations, 33 1/3 of Probate and 25% of Dependency Neglect.

Division III (Judge Shannon Blatt): 50% of Domestic Relations cases, 33 1/3% of Probate cases and 25% of Dependency Neglect cases.

Division IV (Judge Leigh T. Zuerker): 100% Delinquency cases, 100% FINS cases, and 25% Dependency Neglect cases.

Division V (Judge J. Michael Fitzhugh): 40% of all Criminal cases, 50% of Petitions to Revoke and Drug Court.

Division VI (Judge James O. Cox): 50% of all Civil cases and 20% of Criminal cases.

Division VII (New Judge): 50% of all Civil cases, 33 1/3% Probate cases and 25% Dependency Neglect cases.

This breakdown has been discussed with each Judge and they are all satisfied. However, if it is decided that a significant imbalance exists resulting in an adverse effect the matter will be addressed by all judges.

With best personal wishes, I am

Sincerely,

A handwritten signature in black ink that reads "Mike". The signature is written in a cursive, slightly slanted style.

J. Michael Fitzhugh
Circuit Judge