

January 28, 2004

Chief Justice Betty Dickey
Supreme Court of Arkansas
Justice Building
625 Marshall
Little Rock, AR 72201

RE: Amended Administrative Plan for the 12th Judicial District

Dear Madam Chief Justice:

The undersigned circuit judges of the 12th Judicial District (Sebastian County) are herewith submitting a modified administrative plan for this district for the Supreme Court's consideration in view of the Court's *per curiam* order of January 22, 2004, which authorizes exclusive assignment of domestic relations cases in addition to the previously sanctioned exclusive assignment of criminal and juvenile cases. Our previously submitted plan was approved by the Court's *per curiam* order of October 16, 2003.

We have six circuit judges in the district. The proposed plan assigns three judges one third each of the civil and criminal cases with two of these judges also hearing all of the cases in drug court and the other one hearing ten percent of the probate cases. Fifty percent of the domestic relations cases and forty five percent of the probate cases will be assigned to two other judges. The sixth judge will hear all of the juvenile cases.

The only proposed modification of our previously approved plan is that the two judges who were previously hearing primarily domestic relations cases will not be assigned ten percent of the civil cases; the three judges who were previously hearing primarily civil and criminal cases will not be assigned seven percent of the domestic relations cases; and one of the judges previously hearing primarily civil and criminal cases will now also be assigned ten percent of the probate cases. The additional probate cases are assigned to this last judge because he does not hear drug court cases as do the two other judges who hear criminal and civil cases and also in order to have more judges participating in the assignment of probate cases.

All judges except the juvenile judge will continue to hear twenty percent of the probable cause hearings on weekends, and all judges will be available to sign search warrants. All judges also continue to understand that all of them will be available to hear cases of any type if the judges who normally hear the type of case in question are unavailable because of recusal or any other reason.

All of the judges in this district are in agreement with this proposed plan and believe that it provides for the best utilization of the physical resources in the district and the experience of the individual judges. We only have one courtroom in each of the courthouses at Fort Smith and Greenwood which have jury boxes. Although we have a court complex in an office building near the courthouse in Fort Smith which has a courtroom with a jury box, experience has taught us that the complex is too small to accommodate the large number of people associated with jury trials. As for the experience of the two judges who will be assigned domestic relations cases, they have been hearing domestic relations cases and probate cases exclusively for twelve and eighteen years, respectively.

Case load estimates are based on 2002 statistics as were those in our previously approved plan. The specifics of the proposed plan are set out below:

Judge Norman Wilkinson presides over the first division and will be randomly assigned thirty-four percent of criminal cases other than drug court cases, thirty-four percent of civil cases, and ten percent of probate cases. The estimate of the projected case load for Judge Wilkinson is 1,293 criminal cases, 644 civil cases, and 57 probate cases. Although the criminal filings may appear to be high, they often include multiple defendants, multiple counts, and cases where the defendant has not yet been arrested.

Judge Harry Foltz presides over the second division and will be randomly assigned fifty percent of the domestic relations cases, and forty-five percent of the probate cases. The estimate of the projected case load for Judge Foltz is 999 domestic relations cases and 257 probate cases. Judge Foltz will conduct twenty percent of the probable cause hearings in criminal cases which occur on weekends and will be available to determine if search warrants should be issued if the three judges who normally hear criminal matters are not readily available. Judge Foltz is the administrative judge of the district and will perform the duties of that office as specified by the Supreme Court.

Judge Jim Spears presides over the third division and will be randomly assigned fifty percent of the domestic relations cases and forty-five percent of the probate cases. The estimate of the projected case load for Judge Spears is 999 domestic relations cases and 257 probate cases. Judge Spears will conduct twenty percent of the probable cause hearings in criminal cases which occur on weekends and will be available to determine if search warrants should be issued if the three judges who normally hear criminal matters are not readily available.

Judge Mark Hewett presides over the fourth division and will hear all juvenile cases. We believe the district will be well served by Judge Hewett hearing one hundred percent of the juvenile cases due to the unique nature of juvenile court, Judge Hewett's long experience on the juvenile bench, and the fact that Judge Hewett has a large staff which would not be practical for several judges to supervise. All judges, however, are willing to be assigned and preside over juvenile cases when Judge Hewett has a conflict or is unavailable. In 2002 1,744 juvenile cases were filed in the district.

Judge J. Michael Fitzhugh presides over the fifth division and will be randomly assigned

thirty-three percent of the criminal cases including fifty percent of the drug court cases and thirty-three percent of the civil cases. The criminal case filings include multiple defendants, multiple counts, etc.. The estimate of the projected case load for Judge Fitzhugh is 1,293 criminal cases, 644 civil cases.

Judge James Marschewski presides over the sixth division and will be randomly assigned thirty-three percent of the criminal cases including fifty percent of the drug court cases, and thirty-three percent of civil cases. The criminal case filings include multiple defendants, multiple counts, etc.. The estimate of the projected case load for Judge Marschewski is 1,293 criminal cases and 644 civil cases.

The judges of the 12th Judicial Circuit respectfully present this plan to the Supreme Court for its consideration.

Sincerely yours,

Norman Wilkinson
Circuit Judge, Division I

Mark Hewett
Circuit Judge, Division IV

Harry A. Foltz
Circuit Judge, Division II
Administrative Judge

J. Michael Fitzhugh
Circuit Judge, Division V

Jim D. Spears
Circuit Judge, Division III

James R. Marschewski
Circuit Judge, Division VI