

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. 2-5.6

**PROVIDING SYSTEM FOR RANDOM ASSIGNMENT
OF FELONY CASES IN POLK COUNTY**

WHEREAS, except for first-degree homicide cases and cases relating to the civil commitment of convicted sex offenders (commonly referred to as ‘Jimmy Ryce’ cases), the following procedures shall be followed in the assignment of cases among the Divisions of the Felony Division of the Circuit Court in Polk County, commencing upon entry of this Order, and

NOW, THEREFORE, it is ORDERED that:

1. There shall be as many Divisions of the Court as designated in the Administrative Orders and the amendments thereto entitled Assignment of Judges. Each judge assigned to the Felony Division shall be responsible for judicial management of all cases assigned to his or her division. After assignment, unless the judge is absent or unable to act, the cases shall be heard, tried and determined by the judge to whom it is assigned and by no other judge, except upon reassignment or substitution authorized by the assigned judge.
2. The Clerk of this Court shall, as each felony complaint, information, or indictment is filed in his or her office, assign each such complaint, information, or indictment to one of the divisions on a blind random selection system herein prescribed in accordance with a ratio between the divisions ordered from time to time by the Chief Judge of the Circuit.
3. The Clerk of this Court shall procure a box so constructed that one marble at a time may be released from it randomly and a supply of marbles of different colors, one for each division. The Clerk shall place an equal number of marbles for each division in the box. Enough marbles shall be used to allow efficient operation of the system, the numbers to be determined by the Clerk. The Clerk shall be responsible for the secure and impartial operation of the marble machine to the end that the assignments will be random and so that it will be impossible to determine which marble will next drop from the box.
4. Upon the filing of each felony complaint, information, or indictment, the Clerk shall drop one marble from the box and the case shall be assigned to that division. Upon a defendant’s first appearance conducted pursuant to Rule 3.130, Florida Rules of Criminal Procedure, the division assignment shall be noted on the Order Following First Appearance Hearing. If the defendant’s first appearance is conducted on a Saturday, Sunday, or legal holiday, the Clerk shall, on the first work day following first appearance hearing, prepare and forward to the Office of the State Attorney and the Office of the Public Defender, a list which shall contain the defendant’s name, the agency or case

number assigned to the complaint, information, or indictment, and the assigned division. The division assignment shall also be noted on the file folder, when generated, and entered into the Criminal Justice Information System docket system. In those instances where a defendant does not make a first appearance pursuant to Rule 3.130, Florida Rules of Criminal Procedure, the division assignment shall be noted on the file folder, when generated, and entered into the Criminal Justice Information System docket system.

5. Pre-Trial Release Services shall cause to be generated a case history on each defendant who appears for first appearance pursuant to Rule 3.130, Florida Rules of Criminal Procedure. Said case history shall include the division assignment of any pending case[s] and any case[s] where the defendant is on probation or community control. Prior to dropping a marble and assigning a case to one of the divisions, the Clerk shall either display the case history, or review the case history generated by Pre-Trial Release Services, of each defendant named in the complaint, information, or indictment. If there is an open case pending against one of the defendants or if one is on probation or community control, the case shall be assigned to the division before whom the other case is pending or by whom the defendant has been placed on probation or community control. If there is more than one open pending case against a defendant, and those cases are assigned to different divisions or if there are open cases pending in different divisions against different co-defendants, the new cases shall be assigned to the division before whom the lowest numbered case is pending. If the State Attorney's Office notifies the Clerk that two or more cases involve co-defendants, the Clerk shall assign the lowest numbered case to a division and place the other cases in that same division. In any of such events where a case or cases are assigned to a division without dropping a marble, the box shall be opened and the appropriate number of marbles of the division to which the cases are assigned shall be removed and placed in the used tray so as to maintain the correct ratio of assignments between the divisions.
6. Any new violation of law charge which is also charged as a Violation of Probation or Community Control shall be assigned to the section which handled the case where the defendant was originally placed on probation or community control. Any Violation of Probation or Community Control charged without a new violation of law shall be assigned to the judge who has been assigned the Felony VOPs pursuant to the Assignment of Judges Administrative Order entered twice a year.
7. When cases are to be consolidated they shall be consolidated into the lowest numbered case, for hearing before the judge to whom the lowest numbered case is assigned. When the State files one information covering multiple case numbers, the cases shall be consolidated into the lowest number.
8. All first-degree homicide cases as well as all cases relating to the civil commitment of convicted sex offenders (commonly referred to as "Jimmy Ryce" cases), will continue to be assigned to Division F9, as first set forth by Special Order, entitled "In Re: Creation of New Felony Divisions and Reassignment of First-Degree Homicide and Jimmy Ryce Cases", dated September 26, 2005.

9. This Order supersedes and cancels Administrative Order 2-5.5, dated May 16, 2000.

DONE AND ORDERED on this 1st day of September, 2009.

J. DAVID LANGFORD, Chief Judge