

IN THE SUPREME COURT OF FLORIDA

MANUEL ESTEBAN PAYRET,)
Petitioner,)
)
)
VS.)
)
)
THE HONORABLE DON T. ADAMS,)
As Acting Circuit Judge of)
the Fifteenth Judicial)
Circuit of Florida,)
Respondent.)
_____)

CASE NUMBER: 67,739

FILED
NOV 17 1988
CLERK, SUPREME COURT
BY _____
Chief Deputy Clerk

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FIFTEENTH JUDICIAL CIRCUIT

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PRELIMINARY STATEMENT

The State Attorney of the Fifteenth Judicial Circuit has filed a Motion to appear as Amicus Curiae in support of respondent, The State of Florida's, position in this cause. This Brief is submitted subject to and pending a determination on this Motion. The Brief is served prior to receipt of an Order on this Motion, to comply with service requirements set forth in Florida Rule of Appellate Procedure 9.370.

Within the context of this Brief, the parties shall be referred to by proper name. The petitioner, Manuel Esteban Payret, shall be referred to as "Payret"; the respondent, State of Florida, as "State".

To substantiate and document pertinent facts contained herein, an appendix has been submitted in accordance with Florida Rule of Appellate Procedure 9.220 and will supplement, but not duplicate, that of Payret.

The following symbols will be utilized in this Brief:

(Ap. I) - Appendix to petitioner, Payret's, Brief

(Ap. II) - Appendix to Amicus Brief

Finally, the Amicus adopts and incorporates the position espoused and arguments presented in the Answer Brief of the Attorney General, as Counsel for the State.

STATEMENT OF THE CASE AND FACTS

The issue certified and presented to this Court for review seriously impacts upon the viability of the "Glades Jury District". The State Attorney, in his posture as Amicus Curiae, seeks to address those factors bearing on this special district and to provide background information pertinent to its formation.

The Glades Jury District was created in 1977 pursuant to section 40.015, Florida Statutes (Fla. Supp. 1976) which provided for the establishment of "special jury districts" outside the parameters of the County seat in those counties with a population exceeding 50,000.¹ The stated legislative purposes, as set forth in the preamble to this statutory enactment, is to alleviate the hardship on those individuals who must travel considerable distances at great inconvenience, to participate in judicial process. This legislation was intended to accommodate citizens fulfilling civic responsibilities as jurors and to reduce the cost and mileage expenses incurred by the state and county (Ap. II. T1, P.1).

In accordance with the procedure set forth in section 40.015, the Circuit Court Judges of the Fifteenth Judicial

¹40.015 Jury districts; counties exceeding 50,000.

(1) In any county having a population exceeding 50,000 according to the last preceding decennial census and one or more locations in addition to the county seat at which the county or circuit court sits and holds jury trials, the chief judge, with the approval of a majority of the circuit court judges of the circuit, is authorized to create a jury district for each courthouse location, from which jury lists shall be selected in the manner presently provided by law.

Circuit recommended to the Board of County Commissioners by majority vote in November of 1976 that the Glades Special District be formed. Palm Beach County Resolution 77-358 was adopted April 5th, 1977, forming a separate jury district in the westernmost section of Palm Beach County. (Ap. II, T1, P.3)

Several administrative orders were promulgated by the Chief Judge of the Fifteenth Judicial Circuit, implementing procedures to promote effective and efficient operation of the district. The first such Order established procedures for division and assignment of cases designated for jury trials between the special Glades District servicing the western part of the County and the Eastern Jury District. This Order, in its original form as entered on October, 1977, (#1.008) and in its present state as Administrative Order No. 1.006 - 1/80, provided the Glades District as an alternative situs for jury trials in those particular instances, where the defendant in a criminal felony case and all litigants in a Civil Circuit Court action, clearly elect and specifically request to proceed in this optional forum (ApI, "G").

Eligibility for jury trial in this special district , by the terms of Administrative Order No. 1.006, is dependent upon a criminal defendant or all parties to a civil action affirmatively requesting this preference in writing by filing a notice with the Clerk. Such request must be timely filed, within the period prescribed by the Order, to be considered by the Court. In pertinent part, this Order states:

Circuit Court Criminal

Normally, all felony jury trials are held at the main courthouse in West Palm Beach; however, where the situs of the crime is within the Glades Jury District, defendant's counsel may request a jury trial at the Glades Annex. In all such cases, the Clerk shall furnish defendant's counsel with form of "Notice and Preference re Jury District", which form shall be signed and filed by him no later than fifteenth day after the case is set for trial.

Circuit Court Civil

Any party wishing to have a jury trial at the Glades Annex shall file a notice for hearing on motion to this effect. The court shall also consider the convenience of the parties, witnesses, counsel and the availability of courthouse facilities in ruling upon said motion. The motion to have the case tried in the Glades Jury District must be filed and heard before the case is at issue, except for good cause shown. (emphasis supplied)

This Order further provides that all criminal County Court cases where the crime occurred in the Glades shall be tried in this Special District. Civil County Court cases may be tried by order of the Court or request of the parties in the Glades District. Thus, the only proceedings compelled to be tried in the Glades District are criminal misdemeanor offenses and selected Civil County Court cases. In all other cases, the parties must voluntarily submit themselves to this venture and elect to be tried in this Special District (ApI. "G").

The Courthouse building in the Glades District is one of four facilities denominated as official annexes or branches. Administrative Order No. 1.004 - 1/85 designated these facilities and the types of proceedings which may be heard in the respective

annexes (ApI, "F"). As previously noted in Administrative Order 1.006 - 1/80, the Glades Jury District has its own jury pool and is vested with authority to try only those civil and criminal cases referred to in the paragraph above. Two other branch facilities, which do not have their own jury pool, have authority to try non-jury Circuit Court Civil matters where agreed to by the parties.

It is important to note that Administrative Order 1.004 - 1/85, dealing with the Courthouse annexes and branches, likewise permits the parties to set a matter for hearing in one of these satellite facilities (ApI, "F").

The Courthouse annexes are currently, and consistent with past practice have been, judicially staffed by County Court Judges. The Honorable Don Adams is presently assigned to the Glades Courthouse facility. The authority of these judges to set on and preside over Circuit Court cases is derived from Administrative Order 1.003 - 1/85 entitled "Judicial Assignments to Circuit and County Courts on a Temporary Basis". This Order limits the assignment to a one year period, but has been renewed periodically by successive Chief Judges (ApI, "E").

The petitioner in this cause challenges those Administrative Orders vesting the Honorable Don T. Adams, a County Court Judge assigned to the Glades annex, with authority to preside over his felony jury trial. Given the narrow and limited issue presented for review, an involved factual narrative and chronology of lower court proceedings is not warranted. However, brief mention

should be made of the following in view of the position taken by this Amicus Curiae.

The petitioner was charged by information with Conspiracy to Traffic in Cocaine. The cause was set for trial in the Glades annex. By written Motion, the petitioner stated his preference to be tried in the main Courthouse in West Palm Beach. This same pleading alleged that proper administrative procedures were not adhered to in setting the case for trial in the Glades District. The Motion to Transfer on these grounds was denied (Ap. II, T4, P.8)

The question Certified to this Court by the Fourth District, and the Motion to Transfer, and the Writ of Prohibition upon which this Certification is predicated neither raised nor dealt with the above Motion for jury district preference (ApI, "A"; "B";"C"). Thus, allegations of alleged deviations from administrative procedures are not before this Court nor are they germane to this Court's determination.

It is noteworthy that the petitioner's case has, upon his renewed Motion and a Waiver of Speed Trial, been transferred to the main Courthouse in West Palm Beach. It is set for trial November 22, 1985 (Ap. II, T4, P. 9).

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Chief Deputy Clerk


CASE NO. 67,739
Fourth District Court
of Appeal No. 85-1563

MANUEL ESTEBAN PAYRET,)
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Petitioner,)
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vs.)
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THE HONORABLE DON T. ADAMS,)
As Acting Circuit Judge of)
the Fifteenth Judicial)
Circuit of Florida,)
)
Respondent.)
_____)

SUMMARY OF ARGUMENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of this Summary of Argument was served, by mail delivery, upon Florida Attorney General Jim Smith, Attention, Assistant Attorney General Robert T. Teitler, 111 Georgia Avenue, West Palm Beach, Florida, 33401; and, upon Nelson E. Bailey, Lawyer, Commerce Center, Suite 303, 324 Datura Street, West Palm Beach, Florida 33401; and, upon the Honorable Don T. Adams, Acting Circuit Judge, Glades Office Building, 2976 State Road 15, Belle Glade, Florida, 33430, this 12th day of December, 1985.


MAUREEN HACKETT ACKERMAN
Assistant State Attorney

SUMMARY OF ARGUMENT

Administrative Order 1.003 is sufficiently limited in scope and duration to meet the standards set forth in Crusoe v Rowls, 472 So.2d 1163 (Fla 1985) and State ex rel. Treadwell v. Hall, 284 So.2d 537 (Fla 1973). While this Order authorizing a County Court Judge to sit in a Circuit Court capacity has, of necessity, been successive in nature, it does not constitute a permanent assignment in disregard of the Constitutional limitations established for jurisdiction.

Furthermore, there is no compulsion to be tried within this District. A civil litigant or criminal defendant voluntarily chooses to proceed in the district before the Acting Circuit Court Judge. The Administrative Order governing procedures in the Glades Jury District, specifically 1.004 and 1.006, extend this option to the parties only upon voluntary election by written notice.

CERTIFIED QUESTION PRESENTED

MAY A COUNTY COURT JUDGE BE INDEFINITELY ASSIGNED
CIRCUIT COURT DUTIES IN A SPECIALLY CREATED JURY
DISTRICT OF THE 15TH JUDICIAL CIRCUIT?

ARGUMENT

MAY A COUNTY JUDGE BE INDEFINITELY ASSIGNED CIRCUIT COURT DUTIES IN A SPECIALLY CREATED JURY DISTRICT OF THE 15th JUDICIAL CIRCUIT?

The assignment of County Court Judge Don T. Adams, pursuant to Administrative Order 1.003 - 1/85, to preside over those Circuit Court Criminal and Civil cases where the parties request, as a matter of convenience, to be tried in the Special District at the Glades annex, is proper and well within the legal parameters and constraints set forth in Crusoe v. Rowls, 472 So.2d 1163 (Fla 1985), and State ex rel. Treadwell v. Hall, 284 So.2d 537 (Fla 1973). The Administrative Orders pertaining to the Glades Jury District, 1.006 and 1.004, do not create a blanket authorization for a County Court Judge to assume Circuit Court jurisdiction. Rather, these Administrative Orders circumscribe and limit the authority vested in County Court Judges pursuant to 1.003 - 1/85 to those situations where the Criminal defendant and the Civil litigants voluntarily seek to have matters heard in the Special District before an Acting Circuit Judge.

Petitioner, Payret, has misapprehended the import of these Administrative rulings interpreting them to grant broad, indiscriminate, and unbridled authority over any and all Circuit Court matters arising in the Glades Special District. This perception is unfounded and erroneous. The jurisdictional grant of authority is limited in scope and is consistent with and comparable to the case of State ex rel. Treadwell v. Hall, supra.

In Treadwell a County Court Judge was indefinitely assigned to hear all Circuit Court matters involving probate, guardianship, incompetency and trust. This Court determined that the Chief Judge of the Judicial Circuit was vested with authority to make such an assignment and that the County Court Judge was properly empowered to hear the designated Circuit Court matters. This decision was recently approved in Crusoe v. Rowls supra. The opinion in Crusoe however, while not disturbing nor receding from the Treadwell decision, expressly confronted the temporal nature of such special assignments.

In Crusoe, the Court makes it clear that "the assignment cannot usurp, supplant, or effectively deprive Circuit Court jurisdiction of a particular type of case on a permanent basis" (at 1165). This Amicus Curiae would submit that the facts of the case sub judice do not constitute a permanent assignment in disregard of the Constitutional limitations established for jurisdiction.

The judicial assignments have, of sheer necessity, been successive in nature. However, these orders are not indeterminate and open ended but are confined to a one year period. While the Court in Crusoe suggests that such temporary assignments not exceed six months, such a recommendation should not have retroactive binding application to defeat what otherwise qualified as a temporary and limited measure.

The District Court in its brief opinion denying the Writ of Prohibition was, nevertheless, concerned with the recurring and successive nature of these assignments. There are, however,

compelling and extenuating reasons why the Glades Jury District, as distinct from other satellite Courthouse facilities within the County, needs the flexibility to have its assigned County Judge preside over certain Circuit Court matters. These reasons are enumerated, in some detail, in City of Pahokee Resolution 85-13, which supports the existence and operation of the Glades Jury District (Ap. II, T3, P.5).

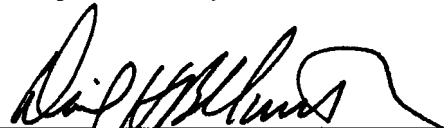
The distance between the Glades Jury District and the main Courthouse in West Palm Beach is considerable, approximately 100 to 120 miles round trip (Ap. II, T3, P.5). The roadways have long been recognized as obsolete and conducive to accidents (Ap. II, T3, P.5). The inconveniences to witnesses and jurors is substantial in requiring travel to West Palm Beach in order to fulfill their respective obligations. Moreover, the expense in terms of lost manpower and actual costs, in having law enforcement officers travel daily to West Palm Beach in order to assist in the prosecution of these cases, is sizeable.

Based upon these considerations, unique to the Glades Special District, and coupled with the limited scope of this judicial assignment, it is respectfully submitted that the authority vested in County Court Judge Adams pursuant to Administrative Orders 1.003, 1.004 and 1.006, is valid and permissible. Accordingly, the decision of the District Court should be approved and the Certified questions, as modified by the facts of this case, be answered in the affirmative.

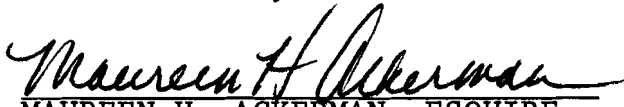
CONCLUSION

The Amicus Curiae respectfully submits, based upon the arguments contained herein and those made by the State in its Answer Brief, that the decision of the District Court of Appeal be approved and the Certified question as modified by the facts of this case, be answered in the affirmative.

Respectfully submitted,



DAVID H. BLUDWORTH, ESQUIRE
State Attorney

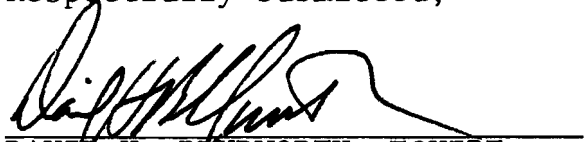


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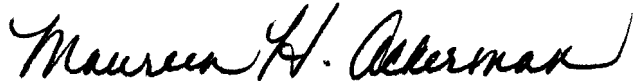
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served, by U.S. Mail delivery, upon Nelson E. Bailey, Lawyer, Commerce Center, Suite 303, 324 Datura Street, West Palm Beach, Florida 33401, Florida Attorney General Jim Smith, Attention, Assistant Attorney General Robert T. Teitler, 111 Georgia Avenue, West Palm Beach, Florida 33401; and upon the Honorable Don T. Adams, Acting Circuit Judge, Glades Office Building, 2976 State Road 15, Belle Glade, Florida 33440, on this date, the 18th day of the month of November, 1985.

Respectfully submitted,



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