

IN THE SUPREME COURT OF FLORIDA

MANUEL ESTEBAN PAYRET, )  
 )  
 ) Petitioner, )  
 )  
 v. )  
 )  
 ) THE HONORABLE DON T. ADAMS, )  
 )  
 ) Respondent. )  
 \_\_\_\_\_ )

CASE NO. 67,739  
FOURTH DISTRICT COURT OF APPEAL  
NO. 85-1563

**FILED**  
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ANSWER BRIEF OF RESPONDENT

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PRELIMINARY STATEMENT

Petitioner was the defendant in the criminal division of the circuit court of the Fifteenth Judicial Circuit, in and for Palm Beach County, and was the Petitioner in the Fourth District Court of Appeal. Respondent was the presiding judge of the Fifteenth Judicial Circuit Court, at the Palm Beach County Courthouse - Belle Glade Annex, and was the Respondent in the Fourth District Court of Appeal.

Respondent accepts and incorporates within its brief the amicus curiae brief as submitted to this Honorable Court by the State Attorney of the 15th Judicial Circuit.

STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's statement of the case and facts to the extent that they present an accurate, non-argumentative reiteration of the proceedings below.

POINT ON APPEAL

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

SUMMARY ARGUMENT

Respondent maintains that Administrative Order 1.003 - 1/85 is facially valid as a temporary assignment, and that any successive nature of said assignments sub judice remains to be a proper use of the chief judge's jurisdiction to aid and assist the Circuit judges and to maximize an efficient administration of justice in the 15th Judicial Circuit.

## ARGUMENT

A COUNTY COURT JUDGE MAY BE INDEFINITELY  
ASSIGNED CIRCUIT COURT DUTIES IN A SPE-  
CIALLY CREATED JURY DISTRICT OF THE 15TH  
JUDICIAL CIRCUIT.

At issue herein is the validity of Administrative Order 1.003 - 1/85 (Appendix A), which authorizes the temporary assignment of County Court judges, such as Respondent, "to hear and decide Circuit Court cases" for the specified and limited period of one year - from "December 31, 1984, through December 31, 1985". Such assignments are made applicable to courthouse annexes of the 15th Judicial Circuit, such as the Glades Courthouse Annex<sup>1</sup>, where only the Respondent presides, which is specifically authorized to hear "all Circuit and County Court matters".<sup>2</sup> A Glades Jury District was established by the Judges of the Fifteenth Judicial Circuit, and the Glades Courthouse Annex was designated as a situs for holding Circuit Court criminal trials - at the defendant's option.<sup>3</sup>

The Petitioner contends, essentially, that Administrative Order 1.003 - 1/85 allows for the successive and repetitive assignment of County Court judges to hear Circuit Court cases, and, in its practical application, allows for the Respondent's seemingly indefinite tenure as a Circuit Court Judge at the Glades Courthouse Annex. Respondent maintains, however, that the Order is clearly valid on its face as a temporary assignment, specifically limited to a one year duration, and is, as such, in accordance with Fla.R.Jud.Admin. 2.050(b)(4) which authorizes such "temporary service".

It is clear that Rule 2.050(b)(4) does not prohibit the promulga-

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<sup>1</sup> Located approximately 43 miles from the main courthouse in West Palm Beach.

<sup>2</sup> Administrative Order 1.004 - 1/85 (Appendix B).

<sup>3</sup> Administrative Order 1.006 - 1/80 (Appendix C).



tion of successive and repetitive assignments, and Respondent maintains herein that such issuance of such facially valid order was not violative of either Rule 2.050(b)(4), or this Court's recent decision in Crusoe v. Rowls, 472 So.2d 1163 (Fla. 1985). The Administrative Order herein was "a proper use of the chief judges jurisdiction to maximize an efficient administration of justice" in the 15th Judicial Circuit. See Crusoe, supra at 1165. The Respondent is a County Court judge, who is regularly scheduled to hear an array of both County and Circuit Court matters, and, pursuant to Administrative Order 1.006 - 1/80 (Appendix C), hear Circuit Court criminal cases which are timely requested by defense counsel to be heard at that Annex. Further, and as briefly recognized by this Court in Crusoe, supra, is discussing State ex rel. Treadwell v. Hall, 274 So.2d 537 (Fla. 1973), the unique geographic quality of the chief judge's judicial circuit should be considered - the Glades Courthouse Annex is "some distance", over forty miles, from the main courthouse in West Palm Beach. As such, Administrative Order 1.003 - 1/85 gave the chief judge the flexibility to effectively utilize judicial manpower in the 15th Judicial Circuit, by permitting County Court judges, such as Respondent, to supplement and aid the Circuit judges - but not to replace them.

Regarding the assignment period sub judice of 12 months, Respondent respectfully acknowledges this Court's suggestion in Crusoe, supra, that such assignment period be no more than six months, but posits that the one year period as set forth in Administrative Order 1.003 - 1/85 was reasonable. It is noteworthy that in Treadwell, supra, the assignment order of the chief judge ordered "that until further order" the County Court judge could act as Circuit judge - and that such indefinite assignment was deemed a valid temporary assignment.

Therefore, Respondent maintains that Administrative Order 1.003 - 1/85 was facially valid as an assignment to temporary service - not mandatorily renewable, but renewable yearly at the chief judge's discretion in the management of his circuit - and, that said Order was a proper exercise by the Chief Judge based upon the unique needs and geography of the circuit, and in the interests of convenience to the citizens and their access to the courts. As such, in the circumstances sub judice, the certified question of the Fourth District Court of Appeal should be answered in the affirmative, and Respondent respectfully requests that the decision of the district court be affirmed.

CONCLUSION

The certified question must be answered in the affirmative, since the assignment was clearly temporary and was a proper use of the chief judge's jurisdiction to maximize an efficient administration of justice in the 15th Judicial Circuit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief of Respondent has been mailed to NELSON E. BAILEY, ESQUIRE, Commerce Center, Suite 303, 324 Datura Street, West Palm Beach, Florida 33401, and has been furnished, by courier delivery, to the Office of the State Attorney, West Palm Beach, Florida 33401, this 18th day of November, 1985; also to HONORABLE DON T. ADAMS, Glades Office Building, 2976 State Road 15, Belle Glade, Florida 33440.



Of Counsel