

J.G., et al.,  
Petitioners,

vs.

THE HONORABLE HOWARD

HOLTZENDORF, as Acting

Circuit Judge of the

Twelfth Judicial Circuit,

Respondent.

No. 85,189

[March 14, 1996]

PER CURIAM.

We have for review J.G. v. Holtzendorf, 648 So. 2d 781 (Fla. 2d DCA 1994), because of conflict with Dozier v. Wild, 659 So. 2d 1103 (Fla. 4th DCA 1995), quashed, 21 Fla. L. Weekly S57 (Fla. Feb. 8, 1996), on the issue of when successive six-month assignments of a county court judge to circuit court duty are proper under Florida Rule of Judicial Administration 2.050(b)(4). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Since 1991 the Chief Judge of the Twelfth Judicial Circuit has made successive six-month assignments of County Judge Holtzendorf to sit as a circuit judge in cases brought before him in DeSoto County. Pursuant to these assignments, he has heard most, though not all, of the juvenile cases in the county and a few other circuit court actions. He continues to perform his county court duties. We believe these assignments are consistent with those in Wild in which we upheld successive six-month assignments of a county judge to hear half of the felony cases in Indian River County in addition to his duties as a county judge. Wild v. Dozier, 21 Fla. L. Weekly S57 (Fla. Feb. 8, 1996).

As in Wild, we hold that the district court of appeal lacked authority to review the administrative order assigning Judge Holtzendorf to circuit judge duty. However, we treat the amended petition for writ of prohibition as if it had been filed in this Court and deny it. While we quash the decision of the court below, we approve of its analysis.

It is so ordered.

GRIMES, C.J., and OVERTON, HARDING and WELLS, JJ., concur.

KOGAN, J., concurs in part and dissents in part with an opinion, in which SHAW and ANSTEAD, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

KOGAN, J., concurring in part and dissenting in part.

I agree that, under this Court's recent decision in Wild v. Dozier, 21 Fla. L. Weekly S57 (Fla. Feb. 8, 1996), the district court lacked authority to pass on the validity of the judicial assignment at issue here. However, I dissent from that portion of the majority opinion which relies on Wild to uphold the assignment. For many of the same reasons that I concluded that the successive assignments at issue in Wild amounted to an improper "permanent" assignment of a county court judge to circuit court duty, I believe that the assignments at issue here likewise are "permanent." The practical effect of these successive six-month assignments to circuit court duty is to create a de facto permanent circuit judge by administrative order. Payret v. Adams, 500 So. 2d 136, 138 (Fla. 1986). This assignment is even more offensive than that at issue in Wild because through successive administrative orders combined with monthly case assignments County Judge Holtendorf has heard virtually all delinquency cases in DeSoto County from at least July 1, 1991, through December 1994. I would hold this an improper "permanent" assignment under this Court's decision's in Crusoe v. Rowls, 472 So. 2d 1163, 1165 (Fla. 1985), and Payret. Because I believe that the assignments at issue here effectively redesignated jurisdiction over juvenile cases, I would quash the decision under review and grant the petition for writ of prohibition.

SHAW and ANSTEAD, JJ., concur.

Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions

Second District - Case No. 94-03821

Elliott C. Metcalfe, Jr., Public Defender and James M. Beesting, Assistant Public Defender, Twelfth Judicial Circuit, Arcadia, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; and Robert J. Krauss, Senior Assistant Attorney General, Chief of Criminal Law and Kimberly D. Nolen, Assistant Attorney General, Tampa, Florida,

for Respondent

