

SUPREME COURT OF ARKANSAS

Opinion Delivered December 13, 2012

IN RE ADMINISTRATIVE ORDER  
NOS. 14 & 18

PER CURIAM

Administrative Order Numbers 14 and 18 provide for the administration of circuit courts and district courts, respectively. Two issues have come to the forefront that affect both courts and necessitate amendments to both administrative orders. First, the emergence of “specialty courts” require our superintending attention. These “courts” include “drug court,” “DWI court,” “veteran court.” In reality, they are not separate courts but special programs or dockets within circuit courts or district courts. (See the new provision, Admin. Order No. 14 (1)(c) for a further explanation of speciality dockets.) These programs are beneficial to the community, but their existence impacts other court resources and must be instituted in a thoughtful manner. While the operation of these specialty programs was covered by the administrative plans required by Administrative Order No. 14, there were not specific provisions applicable to them. Today, we are amending Administrative Order No. 14(1)(c), (2)(d), and (3)(c) to so provide.

Similarly, we are amending Administrative Order No. 18 by adding new sections 9 and 10 to deal with such programs in district courts. As part of this process, and as outlined in the revised orders, district courts will be required to submit plans to implement specialty

programs. Also, district court plans will be required when courts have multiple judges or when they hold court in multiple venues. District courts will submit their plans to the administrative judge of the applicable circuit court, and the district court plan will be appended to the circuit court administrative plan for submission to the supreme court. The supreme court will have to approve specialty programs before they are implemented.

The second issue deals with the evolution of state district courts and in particular the reference of circuit court matters to state district judges. Administrative Order No. 18(6) has been amended.

Under Administrative Order No. 14, the next plans are to be submitted to the supreme court by July 1, 2013, and they are to be effective January 1, 2014. Plans to be submitted are governed by the amendments we announce today. In addition, if courts find it necessary to amend current plans, they must conform to these amendments.

The changes are illustrated in the endnotes at the conclusion of this order. We adopt the amendments to Administrative Order Nos. 14 and 18, as set out below, effective immediately, and republish them.

#### Order 14. Administration of Circuit Courts

##### 1. *Divisions.*

a. The circuit judges of a judicial circuit shall establish the following subject-matter divisions in each county of the judicial circuit: criminal, civil, juvenile, probate, and domestic relations. The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of

divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the circuit court.

b. For purposes of this order, “probate” means cases relating to decedent estate administration, trust administration, adoption, guardianship, conservatorship, commitment, and adult protective custody. “Domestic Relations” means cases relating to divorce, annulment, maintenance, custody, visitation, support, paternity, and domestic abuse. Provided, however, the definitions of “probate” and “domestic relations” are not intended to restrict the juvenile division of circuit court from hearing adoption, guardianship, support, custody, paternity, or commitment issues which may arise in juvenile proceedings.

c. Specialty dockets or programs, typically, employ a problem-solving approach with the judge supervising a treatment plan for a defendant that is designed and implemented by a team of court staff and health professionals. Examples include “drug courts,” “mental health courts,” “veteran’s courts,” “DWI courts,” “Hope courts,” “smarter sentencing courts,” and “swift courts.” Specialty dockets or programs may be established within a subject-matter division of a circuit court if they are described in the circuit’s administrative plan and approved by the supreme court.

2. *Administrative Judges.* In each judicial circuit in which there are two or more circuit judges, there shall be an administrative judge.

a. *Means of Selection.* On or before the first day of February of each year following the year in which the general election is held, the circuit judges of a judicial circuit shall select one of their number by secret ballot to serve as the administrative judge for the judicial circuit. In

circuits with fewer than ten judges the selection must be unanimous among the judges in the judicial circuit. In circuits with ten or more judges the selection shall require the approval of at least 75% of the judges. The name of the administrative judge shall be submitted in writing to the Supreme Court. If the judges are unable to agree on a selection, they shall notify the Chief Justice of the Supreme Court in writing and furnish information detailing their efforts to select an administrative judge and the results of their balloting. The Supreme Court shall then select the administrative judge. An administrative judge shall be selected on the basis of his or her administrative skills.

b. *Term of Office.* The administrative judge shall serve a term of two years and may serve successive terms. The administrative judge shall be subject to removal for cause by the Supreme Court. If a vacancy occurs in the office of the administrative judge prior to the end of a term, then within twenty days of such vacancy, the circuit judges in office at the time of such vacancy shall select an administrative judge to serve the unexpired term, and failing to do so, the Supreme Court shall select a replacement.

c. *Duties.* In addition to his or her regular judicial duties, an administrative judge shall exercise general administrative supervision over the circuit court and judges within his or her judicial circuit under the administrative plan submitted pursuant to section 3 of this Administrative Order. The administrative judge will be the liaison for that judicial circuit with the Chief Justice of the Supreme Court in matters relating to administration. In addition, the duties of the administrative judge shall include the following:

(1) *Administrative Plan.* The administrative judge shall insure that the administrative

plan and its implementation are consistent with the requirements of the orders of the Supreme Court.

(2) *Case Assignment.* Cases shall be assigned under the supervision of the administrative judge in accordance with the circuit's administrative plan. The administrative judge shall assure that the business of the court is apportioned among the circuit judges as equally as possible, and cases may be reassigned by the administrative judge as necessity requires. A circuit judge to whom a case is assigned shall accept that case unless he or she is disqualified or the interests of justice require that the case not be heard by that judge.

(3) *Information Compilation.* The administrative judge shall have responsibility for the computation, development, and coordination of case statistics and other management data respecting the judicial circuit.

(4) *Improvements in the Functioning of the Court.* The administrative judge shall periodically evaluate the effectiveness of the court in administering justice and recommend changes to the Supreme Court.

d. *One-Judge Circuit.* A circuit judge in a one-judge circuit is an administrative judge. An administrative plan shall be submitted to address specialty court programs (*see* subsection (3)(c)(2) of this administrative order), state district judges (*see* subsection (3)(c)(3) of this order, or district court plans (*see* subsection (3)(c)(4) of this order).

3. *Administrative Plan.* The circuit judges of each judicial circuit by majority vote shall adopt a plan for circuit court administration. The administrative judge of each judicial circuit shall submit the administrative plan to the Supreme Court. The purpose of the administrative plan

is to facilitate the best use of the available judicial and support resources within each circuit so that cases will be resolved in an efficient and prompt manner. The plan shall include the following:

a. *Case Assignment and Allocation.*

(1) The plan shall describe the process for the assignment of cases and shall control the assignment and allocation of cases in the judicial circuit. In the absence of good cause to the contrary, the plan of assignment of cases shall assume (i) random selection of unrelated cases; (ii) a substantially equal apportionment of cases among the circuit judges of a judicial circuit; and (iii) all matters connected with a pending or supplemental proceeding will be heard by the judge to whom the matter was originally assigned. For purposes of subsection 3(a)(1)(i), “random selection” means that cases assigned to a particular subject-matter division shall be randomly distributed among the judges assigned to hear those types of cases. For purposes of subsection 3(a)(1)(ii), “a substantially equal apportionment of cases” does not require that the judges among whom the cases of a division are assigned must hear the same percentage of such cases so long as the judges' overall caseloads are substantially equal.

(2) Cases in a subject-matter division may be exclusively assigned to particular judges, but such assignment shall not preclude judges from hearing cases of any other subject-matter division.

b. *Caseload Estimate.* The plan shall provide a process which will apportion the business of the circuit court among each of the judges within the judicial circuit on as equal a basis as possible. The plan shall include an estimate of the projected caseload of each of the judges

based upon previous case filings. If, at any time, it is determined that a workload imbalance exists which is affecting the judicial circuit or a judge adversely, the plan shall be amended subject to the provisions of Section 4 of this Administrative Order.

*c. Other Provisions.*

(1) *Recusals.* The plan shall provide the process for handling recusals, the reassignment of a case, and requests for the assignment of a judge by the Supreme Court. This process shall be consistent with the requirements of Administrative Order Nos. 1 and 16 and may address the use of state district court judges.

(2) *Specialty Dockets or Programs.* The plan shall describe any special programs, dockets, or proceedings, including such things as the operation of a specialty docket or court program (see subsection (1)(c) of this administrative order). The plan shall (A) describe the program and how it is operated; (B) provide the statutory or legal authority on which it is based; (C) certify that the program conforms to all applicable sentencing laws, including fines, fees, court costs, and probation assessments; (D) describe the program's use of court resources, including without limitation, prosecuting attorneys or public defenders, and the availability of such resources and how they will be provided; and (E) provide the source of funding for the program.

(3) *State District Court Judges.* If state district court judges preside over circuit court matters pursuant to the provisions of Administrative Order No. 18, the plan shall (A) describe the cases or matters included; (B) state the judges participating and the assignment and allocation of cases to them; and (C) if specialty dockets or programs are included, provide the

information required by subsection (3)(c)(2) of this administrative order.

(4) *District Court Plans.* Administrative plans prepared by state district judges or local district judges pursuant to Administrative Order No. 18, section 9, shall be appended to the circuit court's administrative plan for submission to the supreme court under section (4) of this administrative order. The administrative judge and other circuit judges may endorse, object to, or otherwise comment on the district court's administrative plan.

4. *Supreme Court.*

a. The administrative plan for the judicial circuit shall be submitted by the administrative judge to the Supreme Court by July 1 of each year following the year in which the general election of circuit judges is held. The effective date of the plan will be the following January 1. Until a subsequent plan is submitted to and published by the Supreme Court, any plan currently in effect shall remain in full force. Judges who are appointed or elected to fill a vacancy shall assume the caseload assigned to the judge they are replacing until such time a new administrative plan is required or the original plan is amended. Upon approval, the Supreme Court shall publish the administrative plan and a copy shall be filed with the clerk of the circuit court in each county within the judicial circuit and the Clerk of the Supreme Court. The process for the amendment of a plan shall be the same as that of the plan's initial adoption.

b. In the event the administrative judge is unable to submit a plan consistent with the provisions of this Administrative Order, the Supreme Court shall formulate a plan for the equitable distribution of cases and caseloads within the judicial circuit. The Supreme Court

shall set out the plan in an order which shall be filed with the clerk of each court in the judicial circuit and the Clerk of the Supreme Court. The clerk shall thereafter assign cases in accordance with the plan.

c. In the event an approved plan is not being followed, a judge may bring the matter to the attention of the Chief Justice of the Arkansas Supreme Court by setting out in writing the nature of the problem. Upon receipt of a complaint, the Supreme Court may cause an investigation to be undertaken by appropriate personnel and will take other action as may be necessary to insure the efficient operation of the courts and the expeditious dispatch of litigation in the judicial circuit.

#### Order 18. Administration of District Courts

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6. *Jurisdiction of State District Court Judgeships.* [This section (6) applies to State District Court Judgeships (“Pilot District Courts”) upon their effective date.] In addition to the powers and duties of a district court under this administrative order, a state district court shall exercise additional power and authority as set out in this section.

(a) *Original Jurisdiction.* A state district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

(1) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars (\$100), excluding interest, costs, and attorney’s fees;

(2) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of twenty-five thousand dollars (\$25,000), excluding interest, costs, and attorney's fees;

(3) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of twenty-five thousand dollars (\$25,000);

(4) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of twenty-five thousand dollars (\$25,000), excluding interest and costs.

(b) *Reference.* A state district court judge may be referred matters pending in the circuit court. An individual matter or a category of case may be the subject of a reference. A state district court judge presiding over any referred matter shall be subject at all times to the superintending control of the administrative judge of the judicial circuit. The following matters pending in circuit court may be referred to a state district court judge:

(1) *Consent Jurisdiction.* Matters filed in the civil, domestic relations or probate division of circuit court upon the consent of all parties (see subsection (d) below);

(2) *Protective Orders.* Ark. Code Ann. §§ 9-15-201 to -217;

(3) *Forcible Entry and Detainers and Unlawful Detainer.* Ark. Code Ann. §§ 18-60-301 to -312;

(4) *Other Matters.* (A) Matters of an emergency or uncontested nature pending in the civil, domestic relations, or probate division of circuit court (such as, ex parte emergency

involuntary commitments pursuant to Ark. Code Ann. §§ 20-47-209, -210, decedent estate administration, uncontested divorces, and defaults) under guidelines and procedures set out in the judicial circuit's administrative plan; or (B) other matters if the justification for the reference and the procedures to be employed are sufficiently demonstrated in the administrative plan; and

(5) *Criminal Matters.* (A) Any of the following duties (the rules referenced below are the Arkansas Rules of Criminal Procedure) with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:

(i) Issue a search warrant pursuant to Rule 13.1.

(ii) Issue an arrest warrant pursuant to Rule 7.1 or Ark. Code Ann. § 16-81-104, or issue a summons pursuant to Rule 6.1.

(iii) Make a reasonable cause determination pursuant to Rule 4.1(e).

(iv) Conduct a first appearance pursuant to Rule 8.1, at which the judge may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason insanity"; conduct a pretrial release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.

(v) Conduct a preliminary hearing as provided in Ark. Code Ann. § 5-4-310(a). If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a state district court judge may not accept or approve a plea of guilty or nolo contendere to the offense charged or to a lesser included felony offense but, may accept or approve a plea of guilty or nolo contendere to a misdemeanor.

(B) If authorized by an Act of the General Assembly, a state district court judge may preside over a drug court program, probation revocation proceedings, or parole revocation proceedings.

(C) Other criminal matters may be referred if the justification for the reference and the procedures to be employed are sufficiently demonstrated in the administrative plan.

(c) *Reference Process.* Except for the exercise of consent jurisdiction which is governed by subsection (d), with the concurrence of a majority of the circuit judges of a judicial circuit, the administrative judge of a judicial circuit may refer matters pending in the circuit court to a state district court judge, with the judge's consent, which shall not be unreasonably withheld. A final judgment although ordered by a state district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court. An order that does not constitute a final appealable order may be modified or vacated by the circuit judge to whom the case has been assigned as permitted by Rule 60 of the Arkansas Rules of Civil Procedure.

(d) *Consent Process.*

1. *Notice.* The circuit clerk shall give the plaintiff notice of the consent jurisdiction of a state district court judge when a suit is filed in the civil, domestic relations, or probate division of circuit court. The circuit clerk shall also attach the same notice to the summons for service on the defendant. Any party may obtain a "Consent to Proceed before a State

District Court Judge” form from the Circuit Clerk’s Office.

2. *Consent.* By agreeing to consent jurisdiction, the parties are waiving their right to a jury trial, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals.

3. *Transfer.* Once the completed forms have been returned to the circuit clerk, the circuit clerk shall then assign the case to a state district court judge and forward the consent forms for final approval to the circuit judge to whom the case was originally assigned. When the circuit judge has approved the transfer and returned the consent forms to the circuit clerk’s office for filing, the circuit clerk shall forward a copy of the consent forms to the state district court judge to whom the case is reassigned. The circuit clerk shall also indicate on the file that the case has been reassigned to the state district court judge.

4. *Appeal.* The final judgment, although ordered by a state district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court.

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9. *Administrative Plan.* (a) A state district court or a local district court shall prepare an administrative plan when the court operates a speciality court program (see section 10 of this administrative order) or when multiple judges preside in the district or the court has multiple venues in the district. With regard to the latter, the plan shall describe the types of cases

assigned to the respective judges and the types of cases heard at the respective sites.

(b) The plan shall be forwarded to the administrative judge of the circuit court and appended to the circuit court's administrative plan for submission to the supreme court. District court plans follow the time lines set out in Administrative Order No. 14. Circuit court administrative plans are to be submitted to the supreme court by July 1st to be effective the following January 1st (see Administrative Order No. 14, section 4). Until a subsequent plan is submitted to and approved, any plan currently in effect shall remain in full force. Judges who are appointed or elected to fill a vacancy shall follow the plan until such time a new plan is required or the original plan is amended. Upon approval, the administrative plan shall be filed with the clerk of the district court. The process for the amendment of a plan shall be the same as that for the plan's initial adoption.

10. *Specialty Dockets or Programs.* If a local district court or a state district court conducts a specialty docket or program, such as "DWI court," "drug court," "mental health court," "veteran's court," "Hope court," "smarter sentencing court," and "swift court," the program must be described in the district court's administrative plan and approved by the supreme court. The plan shall (a) describe the program and how it is operated; (b) provide the statutory or legal authority on which it is based; (c) certify that the program conforms to all applicable sentencing laws, including fines, fees, court costs, and probation assessments; (d) describe the program's use of court resources, including without limitation, prosecuting attorneys or public defenders, and the availability of such resources and how they will be provided; and (e) provide the source of funding for the program.

END NOTES

[New language is underlined.]

Order 14. Administration of Circuit Courts

1. *Divisions.*

.....

c. Specialty dockets or programs, typically, employ a problem-solving approach with the judge supervising a treatment plan for a defendant that is designed and implemented by a team of court staff and health professionals. Examples include “drug courts,” “mental health courts,” “veteran’s courts,” “DWI courts,” “Hope courts,” “smarter sentencing courts,” and “swift courts.” Specialty dockets or programs may be established within a subject-matter division of a circuit court if they are described in the circuit’s administrative plan and approved by the supreme court.

2. *Administrative Judges.* In each judicial circuit in which there are two or more circuit judges, there shall be an administrative judge.

d. *One-Judge Circuit.* A circuit judge in a one-judge circuit is an administrative judge. An administrative plan shall be submitted to address specialty court programs (see subsection (3)(c)(2) of this administrative order), state district judges (see subsection (3)(c)(3), or district court plans (see subsection (3) (c)(4) of this order).

3. *Administrative Plan.* The circuit judges of each judicial circuit by majority vote shall adopt a plan for circuit court administration. The administrative judge of each judicial circuit shall submit the administrative plan to the Supreme Court. The purpose of the administrative plan

is to facilitate the best use of the available judicial and support resources within each circuit so that cases will be resolved in an efficient and prompt manner. The plan shall include the following:

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c. *Other Provisions.*

(1) Recusals. The plan shall provide the process for handling recusals, the reassignment of a case, and requests for the assignment of a judge by the Supreme Court. This process shall be consistent with the requirements of Administrative Order Nos. 1 and 16 and may address the use of state district court judges.

(2) Specialty Dockets or Programs. The plan shall describe any special programs, dockets, or proceedings, including such things as the operation of a specialty docket or court program (see subsection (1) (c) of this administrative order). The plan shall: (A) describe the program and how it is operated; (B) provide the statutory or legal authority on which it is based; (C) certify that the program conforms to all applicable sentencing laws, including fines, fees, court costs, and probation assessments; (D) describe the program's use of court resources, including without limitation, prosecuting attorneys or public defenders, and the availability of such resources and how they will be provided; and (E) provide the source of funding for the program.

(3) State District Court Judges. If state district court judges preside over circuit court matters pursuant to the provisions of Administrative Order No.18, the plan shall (A) describe the cases or matters included; (B) state the judges participating and the assignment and allocation of

cases to them; and (C) if specialty dockets or programs are included, provide the information required by subsection (3) (c) (2) of this administrative order.

(4) *District Court Plans.* Administrative plans prepared by State District Judges or Local District Judges pursuant to Administrative Order No. 18, section 9, shall be appended to the circuit court's administrative plan for submission to the supreme court under section (4) of this administrative order. The administrative judge and other circuit judges may endorse, object to, or otherwise comment on the district court's administrative plan.

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(iii) Make a reasonable cause determination pursuant to Rule 4.1(e).

(iv) Conduct a first appearance pursuant to Rule 8.1, at which the judge may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of “not guilty” or “not guilty by reason insanity”; conduct a pretrial release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.

(v) Conduct a preliminary hearing as provided in Ark. Code Ann. § 5-4-310(a). If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a state district court judge may not accept or approve a plea of guilty or nolo contendere to the offense charged or to a lesser included felony offense but, may accept or approve a plea of guilty or nolo contendere to a misdemeanor.

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(b) The plan shall be forwarded to the administrative judge of the circuit court and appended to the circuit court's administrative plan for submission to the supreme court. District court plans follow the time lines set out in Administrative Order Number 14. Circuit court

administrative plans are to be submitted to the supreme court by July 1<sup>st</sup> to be effective the following January 1st (see Administrative Order Number 1, section 4). Until a subsequent plan is submitted to and approved, any plan currently in effect shall remain in full force. Judges who are appointed or elected to fill a vacancy shall follow the plan until such time a new plan is required or the original plan is amended. Upon approval, the administrative plan shall be filed with the clerk of the district court. The process for the amendment of a plan shall be the same as that for the plan's initial adoption.

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CORBIN, J., dissents.