



VANN SMITH
CIRCUIT JUDGE

SIXTH JUDICIAL CIRCUIT
FOURTEENTH DIVISION CIRCUIT COURT
PULASKI AND PERRY COUNTIES

RANAYE CAMERON
COURT REPORTER

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BAILIFF

PULASKI COUNTY COURTHOUSE
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MELISSA KING
TRIAL COURT ASSISTANT

October 16, 2017

Chief Justice Dan Kemp
Arkansas Supreme Court
Justice Building, 625 Marshall Street
Little Rock, AR 72201

Re: Case Assignment Plan, Sixth Judicial Circuit

Dear Chief Justice Kemp:

The Sixth Judicial Circuit submitted its Proposed Case Assignment Plan in June 2017. There were objections raised by two circuit judges and the prosecuting attorney. I hope the Court will consider the following information in making its decision on our plan. I will try to address each objection that has been raised.

Domestic, Probate and Juvenile matters. An objection was raised by Judges Wright and Pierce that the Sixth Judicial Circuit should reduce the number of judges hearing juvenile matters from three to two contending that the 529 cases each juvenile judge would receive is not fair while those judges hearing domestic and probate have approximately 1,454 per year. They argue that one of the judges hearing juvenile matters should be assigned a family and probate docket.

This issue has been discussed at length by all seventeen circuit judges and we have historically allowed the three judges hearing juvenile cases located in a separate facility on Roosevelt Road to hear a reduced caseload because of the logistics of the separate facility. I have reviewed all of the case assignment plans in which I have participated since at least 2004 and every one of the plans has made this accommodation, usually with unanimous vote, as well as approval by the Supreme Court. We are fortunate to have three circuit judges hearing juvenile matters with two of the judges having over fifty three (53) years of judicial experience. Judges Warren and Branton are actively engaged in hearing each juvenile case in a manner in which they believe is proper. Both take a great amount of time in trying the cases and reviewing each case as required. They tell me, and I have no reason to think otherwise, that even with a smaller amount of cases, to thoroughly and properly review each case takes an inordinate amount of

time. I am sure someone could try these cases quicker but the judges believe that it is better for the families and juvenile that more time is taken in addressing their issues.

Judge James is the third circuit judge that hears juvenile cases. She is the judge that I believe Judges Wright and Pierce talk about hearing a family and probate docket. Judge James ran for the juvenile position just a few years ago and there is no reason why she should be reassigned to a domestic and probate docket at this time. I might also add that she signed the 2018 Case Assignment Plan which continued giving her one-third of the juvenile docket.

Judges Wright and Pierce also argue that it is not efficient for the judges handling family and probate cases to hear approximately 1,454 cases as they argue that we are not able to set temporary hearings within a reasonable time nor set full day or multi-day trials within a reasonable time. To be frank, I do not know where they get this information. First of all, of the 1,454 total cases assigned to family and probate divisions, 421 cases are probate which represents approximately 29% of the cases. As you probably know, most probate matters do not require a hearing. Of the remaining 1,033 cases, child support enforcement cases are heard by the eight full time district judges that we have in Pulaski County. That process was approved in the 2016 Plan when we had four full time district judges. The legislature has now approved eight full time district judges.

I think I can speak for the other judges hearing domestic and probate matters that we have had no difficulty in setting emergency hearings, temporary hearings, single day trials or multi-day trials all within a reasonable time frame. Emergency hearings are routinely set within three (3) business days. Orders of Protection are set in my division within fourteen (14) days of the Ex-Parte Order even though we are allowed thirty (30) days by statute. In my division, we can provide a temporary hearing within thirty (30) days and a full day and multi-day trials within ninety (90) days.

I also want to note that every judge that hears exclusively domestic and probate cases approved the Proposed 2018 Case Assignment Plan. I also want to note that the eight full time district judges are authorized to hearing final domestic abuse cases if the circuit judge assigns them to the district court. That further increases the amount of time circuit judges have to hear family matters.

Regarding the judges hearing civil matters, I have not heard one judge object to the workload that they are assigned and that issue was never raised during any of the meetings regarding the Plan.

One more point. The seventeen judges have always believed that it would be inefficient to send domestic and probate cases to be heard at the Roosevelt Juvenile Center. Attorneys are accustomed to the Pulaski County Courthouse, litigants are accustomed to coming to the courthouse and the facilities in the Pulaski County Courthouse are set up for jury trials and large scale civil matters. We have all discussed this issue many times and believe that the youth of Pulaski County are much better served by having three juvenile judges available to hear their matters quickly and provide the services necessary without having to delay getting into court.

Drug Court/Veterans Court. We are fortunate in Pulaski County to have both an Adult Drug Court and a Veterans Treatment Court. Unfortunately, at present, the Prosecuting Attorney refuses to approve transfers of criminal cases to drug court. However, I also understand that an evaluation mandated by statute is being performed by the National Centers for State Courts which includes looking at the criteria for entrance to drug court.

According to Judge McGowan, many cases have been referred to drug court which would not have met the criteria. Further, a change was made in our 2016 Plan in which additional criminal cases were assigned to Judge McGowan. These cases were new felonies involving Defendant's already in drug court. This added more criminal cases to 9th Division in addition to drug court cases. Those cases are still working their way through the system until conclusion and remain in 9th Division.

I suggest that until the issue is resolved between the Prosecuting Attorney and Judge McGowan and the new criteria is established, that no changes be made at this time regarding drug court and veteran's court. Judge McGowan still has approximately 625 drug court and veteran's court cases which she actively monitors and some fifty criminal cases in 9th Division. The Prosecuting Attorney participates in those hearings as well as the Public Defender and private attorneys. In addition, she also has a civil docket of some 623 cases.

Judge McGowan has acquired grants that are non-transferable and specific to 9th Division Circuit Court as well as hired staff for that court.

This issue has also been discussed at length at our judge's meetings and at the end of the day, fourteen judges have approved the Plan.

Equal division of all cases. I have heard that there may be interest in dividing all our cases with each judge hearing a one-seventeenth of each type case. If this were to occur, it would throw our judicial system into chaos.

For example, the Prosecuting Attorney would need substantially more staff attorneys and the Public Defender would also need more staff attorneys to handle the work load. I would suspect that the Sheriff would have to assign more deputies to handle the schedules of all seventeen courts.

The Pulaski County Courthouse has a secured elevator to only two of the four floors with holding cells in the basement, and on the second and fourth floor. The third floor which houses seven courts of mainly domestic and probate cases has no secured area to handle prisoners. In fact, if a prisoner has to be brought to one of the seven courts, prisoners are put on the public elevator for transport.

The juvenile divisions have staff for three courts and it would also have to increase staff to meet the schedules of seventeen courts. Attorneys would probably have heart attacks in trying to schedule cases in seventeen different courts. Likewise, the courts would have difficulty in scheduling with the attorneys being so thinly spread among seventeen courts.

Even though the idea of assigning one-seventeenth of all cases to each judge would certainly equalize the workload, it would not promote efficiency.

Reduction of criminal court from five to three. The Prosecuting Attorney has proposed that we reduce the number of courts hearing criminal matters from five to three. At present, Judges Johnson, Wright and Sims have 100% criminal. Judges Piazza and Griffen each have 9.5% criminal and 15% civil. We have historically had five courts hearing criminal matters and have never had just three courts hearing criminal matters. Both Judges Johnson and Griffen have their own statutory probation office housed in the Pulaski County Courthouse.

The number of criminal cases, as will all case types, increase one year and decrease the next. Interestingly enough, using the 2016 figures, Pulaski County had a total of 5,338 criminal cases which includes the drug court and veteran's court cases. In 2006, we had a total of 5,356 criminal cases which included drug court cases. We are fortunate to have experienced judges hearing criminal matters. Judge Piazza was a long time prosecutor in Pulaski County before becoming a circuit judge. He is one of our best trial judges and his desire is to continue with criminal and civil matters. He and Judge Griffen had always had the exact percentages of criminal and civil for the last several years but even before Judge Griffen was elected to the circuit bench, Judge Proctor and Piazza both shared in the criminal and civil docket.

Again, this issue has been discussed at length for several years by the circuit judges and every time we have found that it is better to have five circuit judges hearing criminal matters.

CONCLUSION. A vote of nine judges are necessary to submit a Plan to the Supreme Court. Many years, we have had a unanimous vote of the Plan. Sometimes we fall a vote or two short for one reason or another but we have never submitted a Plan with less than fourteen votes. In the current situation, fourteen judges have stated that they approve the Plan as submitted.

The makeup of our court is diverse and many factors go into our decision as to how to divide the caseload. The foremost factor is efficiency and accessibility to the courts for the public. We strive to make the Court accessible to all litigants who have issues to be resolved. We also consider the desires of the judges in making these decisions. At present, we have a very experienced trial bench with six judges nearing retirement in the next three years. Our Plan will change dramatically at that time and each judge who desires a different case load because of burnout or other factors will have the opportunity to make changes. I am sure we have given deference to some judges to maintain their current case load because they have served our circuit and the state admirably and because they are experienced in those areas of the law. However, in no case have we overlooked the needs of the public in making the case assignments.

As I said earlier, we want the public to have full access to the Courts so that their issues can be resolved quickly and efficiently. That is the reason we have included our State District Judges in hearing certain cases such as unlawful detainers, final orders of protection and child support enforcement cases. I note that each of the eight full time district judges have approved their involvement in the case assignment plan. We believe that the Proposed Plan meets the needs of the public in the most efficient manner possible while at the same time, making courts

accessible to all citizens having business before the court. I request the Court approve our Plan as submitted.

If you have any further questions, please feel free to contact me. I would appreciate you sharing this information with the other members of the Court.

Yours very truly,

A handwritten signature in black ink, appearing to read "Vann Smith", written in a cursive style.

Vann Smith
Administrative Judge
Sixth Judicial Circuit

VS/mk



VANN SMITH
CIRCUIT JUDGE

SIXTH JUDICIAL CIRCUIT
FOURTEENTH DIVISION CIRCUIT COURT
PULASKI AND PERRY COUNTIES

RANAYE CAMERON
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MELISSA KING
TRIAL COURT ASSISTANT

June 30, 2017

Chief Justice Dan Kemp
Arkansas Supreme Court
Justice Building, 625 Marshall Street
Little Rock, AR 72201

Re: Case Assignment Plan, Sixth Judicial Circuit

Dear Chief Justice Kemp:

Enclosed please find the Case Assignment Plan for the Sixth Judicial Circuit.

Of the seventeen Circuit Judges, a total of fourteen have approved the Plan, which includes Judge Wendell Griffen who stated his approval in the letter attached to this Plan. A total of nine signatures is required to have the Plan submitted to the Supreme Court. Judges Wright and Pierce also wrote a letter, which is attached, as well as a statement by other Judges.

This Plan was our best efforts to divide the cases as evenly as possible taking into consideration past precedent. This Plan follows the same rationale as stated in each of our previous Plans.

Our Plan is not unanimous, but the objections found in the letter of Judges Wright and Pierce have been discussed by our judges and still, fourteen judges voted for the Plan. We believe the Plan is workable and provides speedy access to our courts by the citizens of Pulaski and Perry Counties.

I would appreciate the Supreme Court adopting our Plan as presented. If you or any member of the Supreme Court has questions, please feel free to contact me.

Yours very truly,

A handwritten signature in black ink, reading "Vann Smith", is written over the typed name.

Vann Smith
Administrative Judge



WENDELL L. GRIFFEN

6TH JUDICIAL DISTRICT
FIFTH DIVISION

Circuit Judge
Pulaski County Courthouse, Room-410
401 West Markham
Little Rock, Arkansas 72201
(501) 340-8550
E-MAIL wgriffen@pulaskimail.net

PULASKI AND PERRY
COUNTIES

June 27, 2017

Hon. H. Vann Smith
Administrative Judge
Sixth Judicial Circuit
401 W. Markham Street, Suite 300
Little Rock, AR 72201

HAND DELIVERED

**RE: Proposed Sixth Judicial Circuit Case Assignment Plan
Effective January 1, 2018**

Dear Judge Smith:

I write to declare my qualified support for the proposed Case Assignment Plan agreed to by vote taken of the judges in the Sixth Judicial Circuit on this date in your chambers. Specifically, I join the vote of our colleagues which anticipates assignment of 1417 cases to me during 2018 (984 civil cases – 15% and 433 criminal – 9.5%).

However, I object to the following provision found at Section 4(d)(2) of the proposed Case Assignment Plan regarding allocation of the criminal caseload.

[P]ursuant to the Per Curiam Opinion delivered by the Supreme Court of Arkansas on April 17, 2017, Judge Griffen in Fifth Division Circuit, will not hear, or be assigned, cases that involve the death penalty or the state's execution protocol, whether civil or criminal. Further, the circuit clerk of Pulaski County, Arkansas is to immediately reassign all cases in Fifth Division that involve the death penalty or the state's execution protocol, whether civil or criminal.

I also object to the following provision found at Section 4(d)(3) of the proposed Case Assignment Plan regarding allocation of the civil caseload.

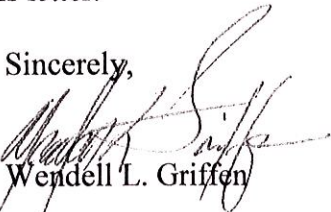
[P]ursuant to the Per Curiam Opinion delivered by the Supreme Court of Arkansas on April 17, 2017, Judge Griffen in Fifth Division Circuit, will not hear, or be assigned, cases that involve the death penalty or the state's execution protocol, whether civil or criminal. Further, the circuit clerk of Pulaski County, Arkansas is to immediately reassign all cases in Fifth Division that involve the death penalty or the state's execution protocol, whether civil or criminal.

I object to the April 17, 2017 decision by the Supreme Court of Arkansas to disqualify me from “cases that involve the death penalty or the state’s execution protocol, whether civil or criminal” and its directive that the circuit clerk of Pulaski County, Arkansas “reassign all cases in Fifth Division that involve the death penalty or the state’s execution protocol, whether civil or criminal.” The April 17, 2017 decision, sanction, and directive was reached in violation of my right to notice and an opportunity to be heard by an impartial tribunal as required by the Fourteenth Amendment to the Constitution of the United States. To the extent that decision was based on allegations brought against me by the petitioners in Supreme Court Case No. 17-299 (*State of Arkansas; Arkansas Department of Correction; Asa Hutchinson, in his official capacity as Governor of the State of Arkansas; Wendy Kelley, in her official capacity as Director of the the Arkansas Department of Correction v. Honorable Wendell Griffen, Circuit Judge; and McKesson Medical-Surgical, Inc.*), the decision and sanctions imposed by it are continuing violations of my right to freedom of speech, freedom of assembly, freedom of religion, and freedom of religious expression guaranteed by the First Amendment to the Constitution of the United States.

There was not on April 17, 2017, is not presently, and is not in the future, any factual, ethical, or legal basis for disqualifying me from hearing or being assigned “cases that involve the death penalty or the state’s execution protocol, whether civil or criminal.” To the extent that the proposed Case Assignment Plan is complicit with the April 17, 2017 Per Curiam Opinion delivered by the Supreme Court of Arkansas concerning assignment, reassignment, or banning me from being assigned to or continuing to preside over cases involving the death penalty or the state’s execution protocol, whether civil or criminal, I expressly object to it.

Please include this letter when you transmit the proposed Sixth Judicial Circuit Case Assignment Plan to the Supreme Court of Arkansas. I am informing all other circuit judges in the Sixth Judicial Circuit of my position by copy of this letter.

Sincerely,



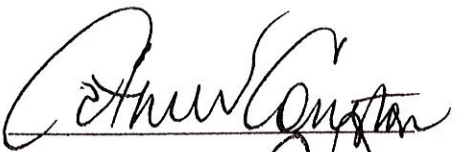
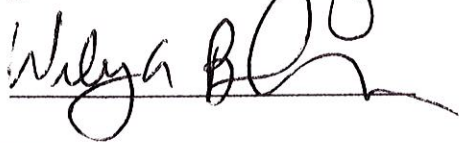
Wendell L. Griffen

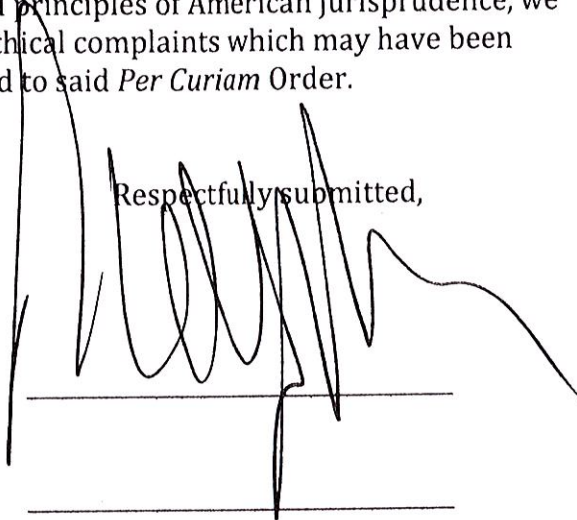
CC: All Circuit Judges, Sixth Judicial Circuit
Larry Crane, Pulaski County Circuit Clerk

The undersigned judges approve the Case Assignment Plan submitted herewith. To the extent that some portions of this Case Assignment Plan are mandated by the *Per Curiam* Order dated April 17, 2017 issued by the Supreme Court of Arkansas, our approval of this plan should not be construed to imply our agreement with said *Per Curiam* Order. That order divests our colleague, Judge Wendell Griffin, of all cases, civil or criminal, having anything to do with the death penalty. While we fully respect the authority of the Arkansas Supreme Court, we also remain cognizant of the solemn duty to conduct courts with fair play, due process, fair notice, and the opportunity to be heard. These basic tenets of American jurisprudence should never be diluted or ignored.

In affirming these well established principles of American jurisprudence, we express no view as to the merits of any ethical complaints which may have been filed against anyone which may be related to said *Per Curiam* Order.

Respectfully submitted,





HERBERT T. WRIGHT, JR.

Circuit Judge
401 West Markham, Suite 440
Little Rock, 72201
Phone: (501) 340-8593
Fax: (501) 340-8822

SIXTH JUDICIAL CIRCUIT
FOURTH DIVISION

PULASKI AND PERRY
COUNTIES

Dear Vann,

We cannot sign the proposed plan for the following reasons:

First, the case distribution is not fair. This plan will have 3 divisions handling approximately 529 cases each and another division with approximately 623 cases and the Drug Court/Veteran's Court. Because of a dispute with the Prosecutor that Division has not received any Drug Court or Veteran's Court cases since early April of this year, and it apparently will not in the future unless they resolve their dispute. The divisions handling family and probate cases will have approximately 1,454 cases.

Second, this is not efficient. With a case load of 1,454, the family and probate divisions will not be able to set temporary hearings within a reasonable time, nor will dates for full-day and multi-day trials be set within a reasonable time. The same is true for the divisions handling civil matters.

There should be two divisions splitting the juvenile cases, and one of the former juvenile divisions should be assigned a family and probate docket. This will help divide a very demanding docket and ensure that litigants can get their issues before a judge within a reasonable period of time.

The Drug Court/Veteran's Court is a great program, and it would be a shame for the County to lose it. If the problems between that division and the prosecutor's office cannot be resolved, then it should be reassigned. As it currently stands, the case load for that Division is too small compared to the number of cases that the other family and probate divisions are handling.

Finally, we believe that – based on the drop in criminal filings – three divisions could handle that load. This would also help with the increase in civil filings and the overload on the family and probate divisions.

Sincerely,


Herbert T. Wright, Jr.


Mackie Pierce

**Sixth Judicial Circuit
Case Assignment Plan, effective January 1, 2018**

1. **Goal of the Plan:** Pursuant to Administrative Order Number 14, as amended, the judges of the Sixth Judicial Circuit have agreed to a Case Assignment Plan that will maximize the resources of Pulaski and Perry Counties while equitably dividing the caseload among the seventeen (17) circuit judges. The Plan takes into consideration various factors, including, but not limited to the current caseload assignment, the location of the facilities, the number of courtrooms suitable for jury trials, and the desire of each individual judge regarding case assignment.

By presenting this Plan to the Arkansas Supreme Court, the judges of the Sixth Judicial Circuit recognize that the Plan is a compromise of many factors and that the ultimate goal is to serve best the citizens of Pulaski and Perry Counties. Changes in the Plan may be made depending on changed circumstances during the effective term of the Plan. Any change will be presented for approval of the Arkansas Supreme Court before implementation.

2. **Effective Dates:** This Plan shall be enacted for the period between January 1, 2018 (or the date the Plan is approved by the Arkansas Supreme Court) and December 31, 2019. The Plan shall remain in effect during that period unless otherwise modified, and shall continue until the Arkansas Supreme Court has approved another Plan.

3. **Voting:** Pursuant to the Per Curiam Opinion delivered January 30, 2003, a majority of the circuit judges in the judicial district shall be sufficient to adopt a plan. In the Sixth Judicial Circuit, there are seventeen (17) circuit judges; therefore, nine (9) votes are required to adopt a plan, and any modifications thereafter.

4. **Administrative Plan:** All cases are to be apportioned among the circuit judges as equally as possible by random selection, and cases may be reassigned 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.

Pulaski County Caseload Plan:

- a. **Pulaski County Average Caseload.** Using 2016 case filing figures, the total number of cases filed in Pulaski County was 21,564, an increase of 2,048 cases above the figures used in the 2016 Plan. The caseload of each circuit judge, if divided equally between the seventeen (17) judges, would be approximately 1268. The circuit judges acknowledge that since the juvenile courtrooms are located separate from the Pulaski County Courthouse, the logistics require a deviation from the concept of equal case filings for each judge. In that regard, the Plan proposes that the three (3) circuit judges currently hearing

juvenile cases maintain caseloads less than the average caseload for the other circuit judges. Excluding the juvenile cases, the average case load for the remaining fourteen (14) circuit judges is approximately 1426.

- b. The Circuit Judges and the eight (8) State District Judges, as of January 1, 2017, have agreed that pursuant to Administrative Orders 14 and 18, the State District Judges will hear a category, or categories, of cases referred to them by the circuit court as will be described in more detail below. It is estimated that approximately 2400 to 3200 cases will be heard by the State District Judges during a year.

The judges of the 6th Judicial Circuit have noticed a trend since 2008 of the numbers of cases filed and the increase/decrease of filings in certain subject matters. As a result of these trends, it is necessary for the judges to monitor the filings periodically to ensure that each judge is receiving a fair and proportionate number of cases each year.

- c. Breakdown of Subject-Matter Divisions:

Case Type:	Number of Cases:
	<u>2016</u>
Criminal	4563
Civil	7190
Domestic	4923
Juvenile	1587
Probate	2526
Drug Court	650
Veterans Court	<u>125</u>
TOTAL	21,564

- d. In general terms, these judges will hear the following type cases in Pulaski County:
1. Warren, Branton and James will share equally in the juvenile caseload.
 2. Johnson, Wright, Griffen, Piazza and Sims will share in the criminal caseload; pursuant to the Per Curiam Opinion delivered by the Supreme Court of Arkansas on April 17, 2017, Judge Griffen in Fifth Division Circuit, will not hear, or be assigned, cases that involve the death penalty or the state's execution protocol, whether civil or criminal.
 3. Piazza, Griffen, Fox, Gray, Pierce, Welch and McGowan will share in the civil caseload; pursuant to the Per Curiam Opinion delivered by the Supreme Court of Arkansas on April 17, 2017, Judge Griffen in Fifth Division Circuit, will not hear, or be

assigned, cases that involve the death penalty or the state's execution protocol, whether civil or criminal.

4. Compton, Reif, Smith, Moore, Welch and Pierce will share in the domestic relations caseload.
5. Compton, Reif, Smith, Moore, Welch, and Pierce will share in the probate caseload including case distribution at Mental Health Court; in addition, Johnson, Piazza, James, Wright, and McGowan will participate in the rotation of hearings at Mental Health Court.
6. McGowan will continue to hear all Drug Court cases. In addition, McGowan will hear all Veterans' Treatment Court cases assigned to her. Veterans' Court was introduced to the Sixth Judicial Circuit by the Administrative Office of the Courts and the Veterans Administration to hear cases specifically involving veterans having a drug and/or alcohol problem or mental illness and having been charged with a non-violent crime. This Court acts in much the same way as does Drug Court by providing supervision of the veteran and treatment of the drug or alcohol problem or mental illness. A full description of the Drug Court and Veterans' Treatment Court will be discussed below.

- e. The division of cases is listed below. The numbers of cases listed are approximations because the filings will vary from year to year. However, using the 2016 case filings figures, each judge would be assigned cases approximately as listed:

<u>Div.</u>	<u>Judge</u>	<u>Percentage (No. of cases)</u>	<u>Total</u>
1 st	Johnson	27% criminal (1213)	1213
2 nd	Piazza	9.5% criminal (433); 15% civil (984)	1417
3 rd	Compton	21% domestic (1033); 1/6 probate (421)	1454
4 th	Wright	27% criminal (1213)	1213
5 th	Griffen	9.5% criminal (433); 15% civil (984)	1417
6 th	Fox	21% civil (1378)	1378
7 th	Sims	27% criminal (1213)	1213
8 th	Branton	33.3% juvenile (529)	529
9 th	McGowan	100% drug court (650); 9.5% civil (623); 100% Veterans Ct (125)	1398
10 th	Warren	33.3% juvenile (529)	529
11 th	James	33.3% juvenile (529)	529
12 th	Gray	21% civil (1378)	1378
13 th	Reif	21% domestic (1033); 1/6 probate (421)	1454
14 th	Smith	21% domestic (1033); 1/6 probate (421)	1454
15 th	Moore	21% domestic (1033); 1/6 probate (421)	1454
16 th	Welch	8.5% civil (558); 9% domestic (443); 1/6 probate (421)	1422
17 th	Pierce	10% civil (656); 7% domestic (344); 1/6 probate (421)	1421

This Plan is made with the specific understanding that pursuant to Administrative Order No. 14, a new plan will have to be submitted to the Arkansas Supreme Court after each election. The judges agree that this Plan will not create a precedent as to how cases are assigned in the future. The judges also recognize that it is likely that the number of cases in each subject matter may increase or decrease over the next year or two and that modifications may be required.

f. Use of Courtrooms and Jury Pools. Since not all judges have courtrooms that are suitable for jury trials, those judges lacking such a courtroom shall contact a circuit judge who does have a courtroom suitable for a jury trial. The judges shall coordinate the setting of jury trials, the sharing of jury pools, and resolve any other issues that arise that will facilitate the setting of jury trials. A request for a jury trial by one of the judges will take precedence over any non-jury matter for that particular day. Any judge hearing juvenile cases and in need of courtroom facilities for a jury trial shall contact any of the judges at the Pulaski County Courthouse to arrange for the use of their courtroom and jury pool. The courtrooms of Judge Chip Welch, Judge Mackie Pierce and Judge Alice Gray on the 3rd floor of the Pulaski County Courthouse are available for jury trials.

Perry County Caseload Plan:

a. In 2016, there were a total of 389 cases filed in Perry County:

Criminal	83
Civil	82
Domestic	124
Juvenile	42
Probate	58

- b. The Circuit Clerk of Perry County will assign each new case to one of the seventeen (17) circuit judges so as to assure that each judge will have substantially the same number of cases as other judges hearing the same case type to which they are assigned. The assigned judge is responsible for the case file; however, by agreement of the circuit judges, nothing shall preclude any other circuit judge from hearing any and all routine and uncontested matters irrespective to which judge the case is assigned.
- c. The circuit judges hearing criminal cases in Perry County will each have a pre-trial day and then a trial day approximately two (2) weeks later, if necessary. Judges Johnson, Griffen, Piazza, Wright, Sims and McGowan will hear criminal cases in Perry County on a rotating basis.

- d. Those circuit judges hearing civil, domestic and probate cases in Perry County will be Judges Gray, Griffen, Fox, Pierce, Compton, Welch, McGowan, Reif, Moore and Smith.
- e. Pursuant to the Per Curiam Opinion delivered by the Supreme Court of Arkansas on April 17, 2017, Judge Griffen shall not hear, or be assigned, cases that involve the death penalty or the state's execution protocol, whether civil or criminal.
- f. Those circuit judges hearing juvenile cases in Perry County will be Judges Warren, Branton and James.

5. Drug Court and Veterans' Treatment Court: The Sixth Judicial Circuit's Drug Court program has been in operation since 1994. Court sessions are conducted in Pulaski County. The program is a post adjudication process and has been since early 1998. Prior to that time, it was a pre-adjudication process. The defendant must elect to enter the Drug Court program as he/she gives up his/her right to a jury trial as he/she must plead guilty. The prosecutor then has the ability to object. However, the program is wide open as to the offenses charged. The program operates in conformity with all criminal statutes and the rules of criminal procedure. No fees are paid to the Court. The Department of Community Corrections (DCC) provides counselors and seven probation officers. All probation fees are paid to the DCC. All court costs and fines are paid to the Pulaski County Clerk's office in conformity with the statutes regarding all criminal fines and court costs.

The Sixth Judicial Circuit's Prosecuting Attorney has assigned a full time deputy prosecuting attorney to staff only Drug Court and Veterans' Treatment Court (VTC). The Public Defender of the Sixth Judicial Circuit has assigned two deputy public defenders to staff these respective courts. They also do not appear in any other division of Circuit Court. These attorneys as well as the private defense bar appear in Drug Court and Veterans' Treatment Court. DCC employs both counselors and probation officers. The Court has an employee who serves as the case coordinator for both Drug Court and VTC.

The Veteran's Treatment Court is patterned after the Drug Court. It has been in operation in the Sixth Judicial Circuit since December 2011. It is a post adjudication court. There are two differences between VTC and Drug Court: (1) VTC is only available to qualified veterans who have criminal charges, and (2) the veterans can suffer from mental illness issues and/or substance abuse. The defendant is eligible with either diagnosis or both. The Veterans Administration employs a VTC liaison who determines if the defendant is an eligible veteran. Then the same process takes place with the defendant initiating the movement to VTC and the prosecuting attorney agreeing to it. VTC adheres to all criminal statutes and the rules of criminal procedure. DCC provides probation officers. The probation fees go directly to DCC. All court costs and fines are paid to the Pulaski County Clerk's office. The VA provides counseling for substance abuse and/or mental illness, residential treatment, housing assistance and eligible benefits assistance. The

same deputy public defenders that staff Drug Court also staff VTC. Private defense counsel also represent defendants in VTC. The Court's case coordinator for Drug Court is also the case coordinator for VTC.

There is no funding for either of these two courts. Each respective entity—the Court, its staff, the VA, the DCC, the prosecuting attorney and the public defender are not paid any additional money for operating either Court.

6. Pulaski County Safe Babies Court (ZERO TO THREE): This project has been implemented by Judge Joyce Warren in the 10th Division Circuit Court. The Pulaski County Safe Babies Court (ZERO TO THREE) began in 2010 as the Arkansas Safe Babies Pilot Court. Judge Warren was, and still is, the judge who presides over this docket. The Division of Children and Family Services (DCFS) and Division of Childcare and Early Childhood Education (DCCECE) of the Arkansas Department of Human Services (DHS) asked ZERO TO THREE to bring the Safe Babies Court Team Project to Arkansas, and a Deputy Director of DHS asked Judge Warren to be the judge of the pilot court.

The Pulaski County Safe Babies Court operates under the auspices of ZERO TO THREE, a national organization with a significant track record in turning the science of early development into helpful resources, practical tools, and responsive policies for parents, professionals, and policymakers. The Safe Babies Court is a systems-change initiative focused on improving how the court, DHS (the child welfare agency), and related child-serving organizations work together, share information, and expedite services for young children in the child welfare system. The goals of Safe Babies Court Team are: (1) to increase knowledge about the negative impact of abuse and neglect on very young children; and (2) change local systems to improve outcomes and prevent future court involvement in the lives of very young children.

The Safe Babies Court has a Community Coordinator position funded by ZERO TO THREE. This individual's focus is to locate persons and programs in the community that can provide appropriate services to the children and families to meet the developmental needs of infants and toddlers in foster care.

The Pulaski County Safe Babies Court focuses on infants from birth to three (3) who are adjudicated dependent-neglected and remain in DHS' custody. When the Judge signs an Ex Parte Order for Emergency Custody and Dependency-Neglect removing a child within that age group from the legal custody of a parent, guardian, or custodian, the Trial Court Administrator notifies the Pulaski County Community Coordinator for the Safe Babies Court Team (SBCT) and the CASA (Court Appointed Special Advocate) Office of the date and time of the probable cause hearing. The Community Coordinator and a CASA supervisor attend the probable cause hearing. After that hearing and before the adjudication hearing, the Community Coordinator gives the parents information about the ZERO TO THREE Safe Babies Court so the parents can make an informed decision about whether they want to participate—if the Court designates the case as ZERO TO THREE—because parents' participation is entirely voluntary. If the child is adjudicated

dependent-neglected, the parent(s)' attorney, attorney *ad litem*, DHS attorney, and Community Coordinator give the Court a recommendation about whether the case should be a ZERO TO THREE case. Judge Warren has the final decision.

Safe Babies Court holds hearings every six (6) weeks, which is more frequent than other DHS cases; the children and parents have more frequent visitations-- [three (3) hours each week for two (2) hours each visit) with some visits held at places other than the DHS offices]. Other services to the family include specialized parenting classes, visit coaches, child-parent psychotherapy, and other trauma-focused services. The Court refers to and calendars these cases as ZERO TO THREE cases. Each case has a CASA assigned. A family team meeting, facilitated by a certified mediator who is the UALR Mediation Program Coordinator, is held every five (5) weeks to address the progress, problem-solve, and prepare a report for the upcoming court hearing. The Court sets aside a Wednesday and Thursday every six (6) weeks for the ZERO TO THREE hearings.

7. **Meetings for Judges:** The Administrative Judge shall establish regular meetings for all circuit judges of at least quarterly, or more or less often, as is necessary. If at least three (3) circuit judges request a special meeting, the Administrative Judge shall promptly call a meeting for all circuit judges.

8. **Election of Administrative Judge:** An election for Administrative Judge was held in February, 2017. Judge Vann Smith was elected Administrative Judge by secret ballot by a vote of 15-0 vote. Judge Smith will serve as the Administrative Judge until such time as the next election is required to be conducted in accordance with Administrative Order No. 14.

9. **Reassignment of subject matter:** The issue of burn-out was first raised by the Arkansas Supreme Court in a per curiam opinion several years ago. The Court recognized that a judge assigned to a particular subject matter may, in time, request an assignment to hear other type subject matters of cases other than those currently assigned to that judge.

As is true in the current Case Assignment Plan for 2018, several judges have requested a different mix of cases such as an increase in civil cases, a decrease in domestic relations cases and a request to not hear criminal cases. Amendment 80 gives the judicial circuits the luxury of modifying its case assignment plans to accommodate these requests.

Because of the configuration of having a main courthouse housing fourteen (14) judges in the downtown Little Rock area and a juvenile courthouse housing three (3) judges on Roosevelt Road in Little Rock hearing exclusively juvenile matters, it is difficult to conveniently modify the case assignment plan to accommodate a desire of one or more of the judges hearing juvenile matters to hear other type cases.

To remedy the situation and to address the issue of burn-out of all judges, as a vacancy occurs in one or more of the seventeen (17) divisions of circuit court, the use of seniority will be utilized to allow a sitting circuit judge to relocate his/her division of court into the

facilities of the vacant judicial division and to assume all or part of the case type currently assigned that division as long as it is consistent with the current Case Assignment Plan. The most senior judge would have the first option to elect to fill the vacancy. The next senior judge would then have the option to relocate, and so on. All subsequent vacancies created by this relocation would then be filled in a like manner using seniority. No sitting judge could be removed from his/her existing caseload or chambers using this process. No judge would change division designation or vacate the sub-district designation assigned to that particular division of court because they elected to relocate to another courtroom and chambers space.

A “vacancy” occurs when a sitting circuit judge leaves the bench because of retirement, removal, death or loss of re-election and the vacancy is filled by election. A “vacancy” does not occur when the Governor appoints a person to fill the vacant judicial position.

[By way of example only, if 14th Division Circuit Court becomes vacant because of resignation, removal or death of the sitting judge and if the Governor appoints a person to fill 14th Division, there would not be a vacancy which would allow a sitting judge to move to the courtroom and chambers of 14th Division at that time because the vacancy would be filled by appointment. If, however, an election occurs to fill 14th Division, a sitting judge could decide to move his/her division of court to 14th Division using seniority. If the 7th Division Circuit Judge elects to relocate to the 14th Division courtroom and chambers, then the 7th Division Circuit Judge will remain 7th Division as that is the division of court to which he/she was elected. The 7th Division Circuit Judge would simply move to the new courtroom facilities. The 14th Division would then relocate to another courtroom and chambers in the Pulaski County Courthouse or to the Juvenile Court Building on Roosevelt Road, Little Rock, Arkansas based on seniority.]

If more than one judge wants to relocate after an election has occurred, the use of seniority will dictate the order in which the relocation process shall take place.

The relocating judge must make the decision to relocate to the vacancy by notifying the administrative judge and the newly elected judge at least thirty (30) days after the general election for judges in either the spring election, special election or in November, depending on whether there is a run-off or not for that judgeship.

10. Recusal Policy: The Arkansas Supreme Court has directed the circuit courts to develop a recusal policy and place it in the Case Assignment Plan. The recusal policy for Pulaski and Perry Counties shall be as follows:

- a. If a judge decides to recuse on a case assigned to that judge, the judge shall enter an order to that effect and shall direct the circuit clerk to randomly reassign the case to another judge who hears that subject matter. If all the judges hearing that particular subject matter recuse, then the clerk shall randomly assign the case to the remaining judges until a judge decides to hear the case, or all judges recuse, in which case the clerk shall

notify the administrative judge who will then contact the Chief Justice of the Arkansas Supreme Court for assignment to another judge.

- b. The recusing judge is to immediately notify the new judge of the assignment and also the attorneys or litigants, if pro se, of the recusal and reassignment.
- c. No reason for the recusal is required if the Order of Recusal is filed within six (6) months from the date the recusing judge is assigned the case. If the Order of Recusal is filed after six (6) months, the recusing judge is to state a reason for the recusal in the Order. This will provide the necessary transparency to this process so that litigants and attorneys will understand why the recusal was necessary. No subsequent court may refuse to accept the reassignment of the case from the clerk because of the sufficiency of the reason for recusal nor shall any litigant have the authority to question the court's decision to recuse.

11. State District Court Judges: Pursuant to Supreme Court Administrative Order No. 18, section 6, and legislation passed in the 2011 legislative session, eight (8) District Judges in Pulaski County were made State District Judges as of January 1, 2017. The Judges, as of January 1, 2018, will be: Judge Wayne Gruber, Judge Rita Bailey, Judge Randy Morley, Judge Milas H. "Butch" Hale, III, Judge Paula Juels Jones, Judge Hugh Finkelstein, Judge Mark Leverett and Judge Vic Fleming.

The State District Judges are authorized to hear certain cases that have been referred to them by the Circuit Judges of Pulaski County, Arkansas or cases which have been transferred to them by consent, pursuant to Administrative Order No. 18.

The State District Judges have signed an exchange agreement, a copy of which is attached to this Amended Case Assignment Plan, permitting the respective judges to sit in the respective courts other than their own pursuant to and under the authority of Ark. Const. Amend. 80, Sec. 7; Ark. Code Ann. Sec. 16-17-102 and Supreme Court Administrative Order No. 18, section 6. By signing this exchange agreement, the District Judges will have the authority to hear circuit court cases with jurisdiction and venue in Pulaski and Perry Counties that have either been referred to them or which have been transferred to them by consent.

The Circuit Judges of the Sixth Judicial Circuit, as indicated by their approval to this Plan, intend to utilize the full-time District Judges to the fullest extent possible pursuant to the requirements of Administrative Order No. 18, section 6.

Implementation Plan. The State District Judges shall hear cases originating from the Office of Child Support and Enforcement, final Petitions for Orders of Protection, and unlawful detainer actions. The State District Judges have agreed to and have been assigned specific days to hear these cases. A calendar of the schedules of the judges will be maintained by the Administrative Judge and is open for inspection. The State District

Court will hear cases Monday through Thursday of each week. A courtroom in the Pulaski County Courthouse has been created and used by the State District Judges. The Circuit Court has arranged for staffing including a case coordinator and bailiff. Recording equipment has been installed and is in use.

The cases are assigned to one of the circuit judges, but the category of cases are heard by referral by the State District Judges pursuant to Admin. Order No. 18. In addition to the category of cases described above, other matters may be submitted to the State District Judges such as authorized by Admin. Order No. 18 (6)(b) upon agreement of the Circuit Judges and the State District Judges. If there are any substantive changes to this Implementation Plan, the Supreme Court will be asked to approve the change.


Criminal Magistrates. The administrative judge for the 6th Judicial Circuit, with the concurrence of a majority of the circuit court judges, and with the consent of the district judges, has appointed the judges of the Pulaski County District Court, the Little Rock District Court-Criminal Division, the Sherwood District Court, the North Little Rock District Court-Criminal Division, and the Maumelle/Jacksonville District Court as Criminal Magistrates to hear the following matters authorized by the Arkansas Rules of Criminal Procedure 1.8 (b)(iii)-(v):

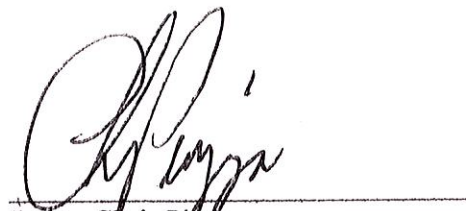
1. Make a reasonable cause determination pursuant to Arkansas Rule of Criminal Procedure 4.1(e);
2. Conduct a first appearance pursuant to Arkansas Rules of Criminal Procedure 8.1, at which the Criminal Magistrate may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason of 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;
3. Conduct a preliminary hearing as provided by ACA Sec. 16-93-307(a).

12. Copies of District Court Administrative Plans: A copy of the Administrative Plans for the District Courts in Little Rock, North Little Rock, Pulaski County, Sherwood, Maumelle, Jacksonville, Wrightsville/Cammack Village and Perry County are attached. Paragraph 11, above, is incorporated into each of the District Court Administrative Plans as if set out word for word therein.

The Case Assignment Plan for the Sixth Judicial Circuit is submitted for approval on this 30th day of June, 2017.

Approved:


Judge Leon Johnson

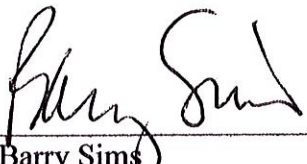

Judge Chris Piazza

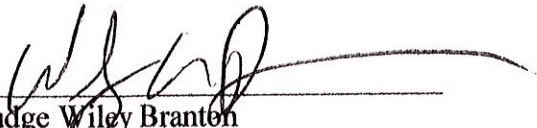

Judge Cathi Compton

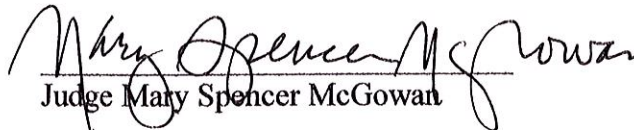
Judge Herb Wright

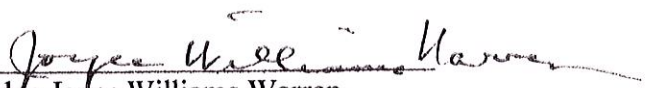
Judge Wendell Griffen

Judge Tim Fox


Judge Barry Sims

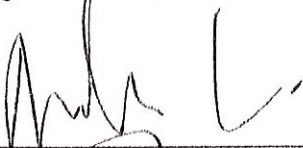

Judge Wiley Branton

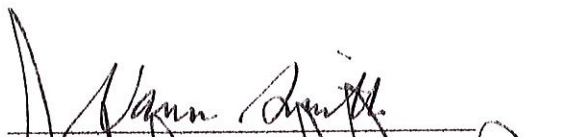

Judge Mary Spencer McGowan

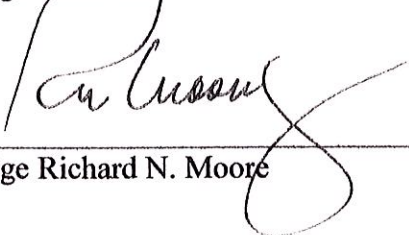

Judge Joyce Williams Warren



Judge Patricia James

Judge Alice Gray


Judge Mike Reif


Judge Vann Smith


Judge Richard N. Moore


Judge Morgan "Chip" Welch

Judge Mackie Pierce

Judge Cathi Compton

Judge Herb Wright

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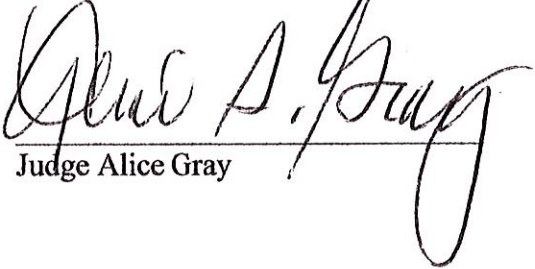
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