

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR DELAWARE COUNTY)

Case No. 18S00-1408-MS- 530

ORDER APPROVING AMENDED LOCAL RULE

The judges of the Delaware Circuit Court request the approval of an amended local rule for special judge selection in accordance with Ind. Criminal Rule 13. Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the Delaware Circuit Court, this Court finds that the proposed rule amendment, LR18-CR00-DLR-0006 complies with the requirements of Ind. Criminal Rule 13, and accordingly, should be approved.

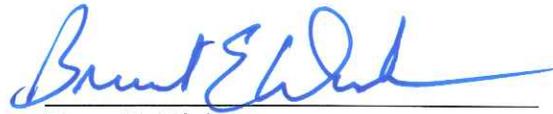
IT IS, THEREFORE, ORDERED by this Court that Delaware Circuit Court Local Rule, LR18-CR00-DLR-0006, set forth as an attachment to this Order, is approved effective retroactive to July 1, 2014, provided further that the rule shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Thomas A. Cannon, Jr., Delaware Circuit Court #5, 100 West Washington Street, Muncie, IN 47305-2827; to the Hon. Kimberly S. Dowling, Delaware Circuit Court #2, 100 West Washington Street, Muncie, IN 47305-2868; to the Hon. John M. Feick, Delaware Circuit Court #4, 100 West Washington Street, Muncie, IN 47305-2863; to the Hon. Marianne L. Vorhees, Delaware Circuit Court #1, 100 West Washington Street, Muncie, IN 47305-2867; to the Hon. Linda Ralu Wolf, Delaware Circuit Court #3, 100 West Washington Street, Muncie, IN 47305-2869; to the Clerk of the Delaware Circuit Court; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Delaware Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for

examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on August 12, 2014.



Brent E. Dickson
Chief Justice of Indiana

LR18-CR00-DLR-0006
Criminal Practice and Procedure

A. Assignment of Cases.

The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C felonies or D felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); L5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Level 1, 2, 3, 4, 5 and 6 felonies.

All felonies charging Murder, Levels 1, 2, 3, 4, 5 and 6 will be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred.

The following monthly rotation is now established, effective July 1, 2014:

- Circuit Court No. 4 - the first month (July 2014)
- Circuit Court No. 5 - the second month;
- Circuit Court No. 1 - the third month;
- Circuit Court No. 2 - the fourth month;
- Circuit Court No. 3 - the fifth month;

Thereafter, the monthly rotation among the courts will continue in this sequence until further order.

If a Defendant has allegedly committed multiple offenses in different months, the date of the earliest alleged offense shall control the assignment.

B. Criminal Cases Transferred from Muncie City Court or Yorktown Town Court.

1. Any case transferred from the Muncie City Court or the Yorktown Town Court may be filed in the Division of the Circuit Court that holds the highest pending felony charge, regardless of when the misdemeanor crime was allegedly committed.
2. If no felony cases are pending against the Defendant the misdemeanor will be filed in the Delaware Circuit Court No. 4 or No. 5 under the following rotation schedule:
 - Circuit Court No. 4: January, March, May, July, September and November;
 - Circuit Court No. 5: February, April, June, August, October, and December.
3. A "pending" case is a case not yet disposed of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

C. Transfer and Reassignment.

A judge may transfer and reassign to any of the other five Circuit Court Judges a pending case, by issuing a written order for transfer, and subject to the receiving court's acceptance.

Lower classes of felonies shall transfer to the court where the case alleging the higher felony offense is pending. A "pending" case is a case not yet disposed by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

D. Filing and Reassignment of class Level 6 felony or D felony Cases.

Any Level 6 felony or Class D felony case may be filed in the Division of the Circuit Court that holds another pending felony charge, regardless of when the Level 6 felony or class D felony offense was allegedly committed.

If a Defendant charged with a pending Level 6 felony or class D felony case is later charged with a higher felony, i.e., Murder, Level 1, Level 2, Level 3, Level 4 and level 5 felonies or class A, class B, or class C felony, the Court with the Level 6 felony or class D felony case shall transfer the Level 6 felony or class D felony case to the court with the higher pending felony case, either on its own motion or at a party's request.

A "pending" case is a case not yet disposed of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

E. Re-filing by the State.

In the event the State of Indiana dismisses a case and later re-files that case, the State shall file the case in the court which dismissal was taken.

In the event the State of Indiana dismisses a case, any subsequent related cases filed against such defendant within ninety (90) days shall be assigned to the court from which dismissal was taken.

F. Additional Related Charges.

If the State files additional related charges against a Defendant, after the case is initially assigned, the State shall file all additional related charges in the court of initial assignment.

G. Additional Unrelated Charges.

Except as to Level 6 felonies or as to class D felonies, as set out in Section D above, if the State files additional unrelated charges against a Defendant, after the case is initially assigned, the State shall file all unrelated charges in the court based upon the month in which the offense allegedly occurred.

H. Special Judge Assignment.

If a judge grants a change of judge motion, or should a judge find it necessary to disqualify and assign a different judge to a case, the Clerk shall reassign the case as follows:

- Cases from the Delaware Circuit Court No. 1 shall be reassigned to the Delaware Circuit Court No. 2.
- Cases from the Delaware Circuit Court No. 2 shall be reassigned to the Delaware Circuit Court No. 3.

- Cases from the Delaware Circuit Court No. 3 shall be reassigned to the Delaware Circuit Court No. 4.
- Cases from the Delaware Circuit Court No. 4 shall be reassigned to the Delaware Circuit Court No. 5.
- Cases from the Delaware Circuit Court No. 5 shall be reassigned to the Delaware Circuit Court No. 1.

If the judge to whom the case is assigned cannot assume jurisdiction for any reason, the Clerk shall assign the case to the next judge in the consecutive order as set out above.

I. Special Judge Assignment – Outside Delaware County

If the Clerk is unable to assign a special judge under the provisions of paragraph H, then the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the judges from the following available panel of judges:

- a. Presiding Judge, Blackford Circuit Court;
- b. Presiding Judge, Blackford Superior Court;
- c. Presiding Judge, Henry Circuit Court No. 1
- d. Presiding Judge, Henry Circuit Court No. 2;
- e. Presiding Judge, Henry Circuit Court No. 3;
- f. Presiding Judge, Jay Circuit Court;
- g. Presiding Judge, Jay Superior Court;
- h. Presiding Judge, Randolph Circuit Court;
- i. Presiding Judge, Randolph Superior Court;

If a special judge selected from the rotating list is ineligible for, disqualified from, or excused from appointment, then the regular sitting judge shall direct the Delaware County Clerk to select (on a rotating basis) the next judge on the list.

In the event that no judicial officer within the above list is eligible to serve as special judge, or if the case's particular circumstances warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court to appoint a special judge.