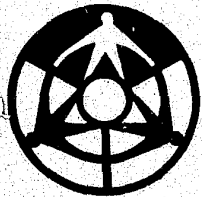




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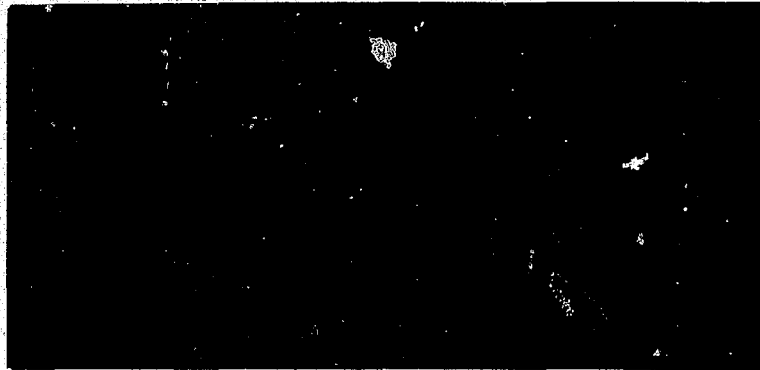
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The American University Law School

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THE IMPACT OF DECRIMINALIZATION ON THE INTAKE PROCESS FOR PUBLIC INEBRIATES

RECOMMENDATIONS FOR IMPROVING THE
ADMINISTRATION OF THE FOURTH DISTRICT
COURT OF APPEAL OF FLORIDA
VOLUME II

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ACQUISITIONS

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I. INTRODUCTION

In September 1976, Chief Judge Gerald Mager of Florida's Fourth District Court of Appeal requested LEAA's Criminal Courts Technical Assistance Project at The American University to review the Court's present operating procedure with a view to recommending improvements in case processing and administration. Of particular interest to Judge Mager were methods which the Court might consider to improve its efficiency, increase productivity and expedite case processing.

In response to this request, two phases of technical assistance were provided. The first phase, provided in December 1976, consisted of a general survey of the administration and resources of the Court with particular attention to case assignment policies, screening practices and general administrative procedures. The consultants assigned were: Hon. T. John Lesinski, former Chief Judge of the Michigan Court of Appeals; Ronald Dzierbicki, Chief Clerk of the Michigan Court of Appeals; and Maurice Geiger, a private consultant with considerable experience in appellate court operations. The report of this assistance was submitted to the Court in April 1977.

The second phase of assistance was provided the following month by Mr. Dzierbicki and is documented in this report. Mr. Dzierbicki returned to the Court for one week to provide a detailed analysis of the procedures presently utilized in the Clerk's Office and to recommend and explain, as appropriate, alternative processes practiced in other jurisdictions which the Court might consider to more efficiently handle its caseload. In particular, Judge Mager asked Mr. Dzierbicki to address problems in the area of (1) paperwork created by the Court's increased case volume and (2) record maintenance in light of the two facilities from which the Court now operates.

A report of this analysis was submitted in draft form to Judge Mager and his staff in August and subsequently transmitted to Judge James Alderman, who assumed the position of Chief Judge in September. Following their review, this report is now being submitted in final form with the expectation that Mr. Dzierbicki will make a return visit to assist the Court in implementing the recommendations provided.

II. ANALYSIS AND RECOMMENDATIONS

The primary need for any clerk's office is to have a unified central record keeping system -- one which is flexible enough to be adaptable to the various procedures before the Court of Appeal, and also flexible enough to meet the growing procedural needs and the demands of increasing volume. Consequently, it is the principal recommendation of this writer that the systems presently used in the office of the Fourth District Court of Appeal of Florida be modified and reduced to three basic elements of a unitary record-keeping system.

A. Master Index

Every matter within the jurisdiction of the Court of Appeal should be indexed within a single master index system. Each party to the appeal should be indexed on a simple 3" x 5" index card. The index cards should be housed in a typical library card catalogue tray section, preferably on a swivel base and located at a point where it is immediately accessible to both a telephone operator and the mail team.

The index cards should be typed in such a fashion so that the surname of the party being indexed is the first entry on the card, and the typing proceeds in such a fashion so that the complete title is, so to speak, rolled on the index card, regardless of the starting point. Each party should be identified as to its status in both the Court of Appeal and the trial court. The title should be followed by the county and the identifying number of the trial court, not only for document reference, but so that duplicative filings or co-defendants may be identified. The upper right hand corner of the index card should have the identifying number in the Court of Appeal (see Exhibit I).

For ease and immediacy in dealing with the master index, the cards may be color coded with respect to their status as appellant or appellee in the Court of Appeal. For example, appellants would be on white cards, whereas appellees would be on buff cards. In addition, it would not be necessary to type an index card for the state in state cases. The defendant-appellant in a criminal matter can be singly indexed, but with a separate color coding for criminal appeals -- say, for example, blue.

Except for color coding, full titles and lower court numbers, the index cards presently prepared are essentially as recommended. However, additional information is typed on the cards which should be dropped as duplicative of the master docket card. Only the essentials for cross referencing should be placed on index cards: (1) names of parties, (2) status of parties, (3) identifying case number in every court.

The office presently uses a sequential numbering system prefaced by the last two digits of the year within which the filing was made. It is recommended that the present numbering system be kept because of certain marginal benefits it has over continuous sequential numbering.

An index and numbering system serves but one purpose: retrieval. As a master index system, the procedure is complete and should stop at this point. Therefore, the pulling of index cards when an appeal is closed, stamping the cards closed and filing them in separate catalogue should terminate as additional work producing duplicative look-up work. A master index is what the name implies -- a single index system with the sole function to indentify and retrieve any and all items of business coming before the court.

B. Master Case Record or Docket

The key question that should be addressed here is: does the record-keeping system perform a function in relation to needs in the most simple and economical fashion possible? The primary goal for the system should be simplicity and economy. The secondary goal should be flexibility. The system should have the basic flexibility to accommodate new procedures and increasing volume. Simplicity and economy are achieved by the development of a single form of basic case history document that can be used for all business matters coming before the court. Flexibility is achieved by placing the single case history document on cards or sheets capable of movement and categorization.

Presently a document system is employed utilizing docket sheets that are kept by serial number in a ledger tray. These sheets are preprinted and punched so that when the case has been closed, the case history document may be inserted in serial order in a looseleaf type binder for permanent storage.

This writer would commend the use of the looseleaf type docket sheets because of their mobility and ease of handling, as well as the potential they have for neatness in that all entries may be typed. However, the writer would suggest that the design and organization of the docket sheets be revised. It can and should be better designed for faster handling and easier reading.

The present docket sheet should be reduced to approximately 8 1/2" x 12" for easier handling. This size would easily accommodate any of the standard double ledger tray mobiles presently being offered commercially. The upper portion of the card should be divided in half vertically, with horizontal lines at appropriate points of each half, making up boxes being denominated with a preprinted caption relating to the information to be inserted within the box. As can be seen from an examination of the suggested design (see Exhibit III), the left portion is divided into a section for the full title

to be inserted with the identification of all parties and a small section for the nature of the action or appeal. The right hand side is headed by sequential docket number with a large space for the insertion of the names and addresses of the attorneys of record to be inserted in the same sequence as the parties they represent. The attorney section is followed by spaces for the court of origin, the trial judge, the trial court number and the date of the trial court judgement.

Thereafter, the docket card should be divided into horizontal lines spaced at intervals identical to the standard typewriter interval or line. A single vertical line appears at the left hand side of the card to be used exclusively for the insertion of arabic numerals corresponding to the date of filing.

Here the writer strongly proposed the preprinting of essential steps in the typical appeal arranged in a chronological fashion on the docket sheet. Although one would have to match up two chronological sets of entries, reading chronologically between the preprinted and the nonpreprinted items would be relatively easy compared with the more chaotic jumping from box to line as illustrated on the present docket sheet (see Exhibit II). However, the principal advantage of having a small number of key items preprinted in identical positions on each docket card, is that they isolate and highlight these key entries for the reader or worker of the card. Thus, a reader's eye movement becomes adjusted to the particular position of preprinted lines in close proximity and can rapidly scan a large group of cards to select, for example, those in which appellant's brief has been filed but appellee's brief has not. This design is similar to punch cards which are coded on a particular line of one field so that the sensors may sort out the cards with certain characteristics in a batch sorting system. In other words, the design allows for some ease in a volume situation where nominal batch sorting is desired.

The reader's attention is directed to Exhibit II which is a reduced photograph of the present docket sheet which measures 10 1/2" x 14". Exhibit IV is a complete version of the redesigned docket sheet. Aside from comparison with Exhibit III, the reader will note that the preprinted and typewritten entries are distinguished by the style of typeface.

The purpose of the first two free lines which contain no preprinted item is that the unique type of initiating procedure amongst the basic precedential systems may be inserted, thereby making the card adaptable for all of the possible business that may come before the court.

The modifications introduced in the new design of the docket sheet provide a single inclusive and permanent record showing (a) all activity in an appeal in semi-chronological order and key status items permanently located for rapid eye scanning and have the capacity to be refined or adapted to any change of the record system, including computerization.

C. Status Card

The high volume presently being handled by the Fourth District Court of Appeal demands close and continuous monitoring of all appeals pending before the court. Exhibit V represents the design of a status card printed on a routine 8" x 5" card, which may be reduced to a 5" x 3" card for easier handling if necessary. Again, for instant identification and sorting, the cards should be color coded for civil appeals, criminal appeals, interlocutory appeals, and original writs. The status card is a temporary card which exists only for the life of a particular appeal and serves two basic functions. First, by being housed in a separate ledger tray by status categories corresponding to key stages in the appellate process, the clerk has all appeals in a particular stage together for instantaneous monitoring or statistical purposes. Second, the card is designed to accommodate confidential in-house

entries and information concerning staff screening and judicial assignments which should not appear on the official docket sheet, a record subject to public scrutiny by an interested party.

The status card would be prepared at the same time the appeal is opened. A simple short title of the case would be entered in the appropriate box. Next the docket number would be typed. On the first free line the type of appeal or original proceeding would be typed in, with the Court of Appeal date of filing in the left free box. The lower court date filing, if applicable, follows the entry of the notice of appeal. Bear in mind that these status cards are color coded by four categories, as indicated above, for ease of recognition and differential handling.

The status cards are then filed in card trays with dividers captioned as illustrated in Exhibit VI, representing the critical stages of categories in the historical development of any matter before the Court of Appeals. For example, all cases filed and awaiting appellant's brief would be filed in sequential order under the category "awaiting appellant brief". When appellant's brief is filed, the date of filing and indication as to whether oral argument is or is not requested will be entered on both the docket sheet and the status card. The status card will then be moved into the category "awaiting appellee's brief". Although all pleadings would be entered on the official docket sheet which is the case history record, only those preprinted critical stages towards perfection would be entered on the status card.

When the appeal is perfected and ready for submission, it receives differential treatment in the clerk's office based upon four categories. First, if it is a civil case without oral argument, it is immediately submitted to the judges on briefs. Consequently, the status card may have a date entered

next to submission and the name of the judge to whom the case is assigned entered after the word "assignment". Second, civil appeals where oral argument is requested are presently held for approximately seven months in a ready category until they may be submitted to the court in accordance with the fixed work load in the sequence of the date of perfection. Here the ready date would be entered and the card would be filed under "awaiting submission". Third, criminal appeals being submitted on briefs are immediately sent to the screening unit for the preparation of a memorandum. Here the date of transmittal to the screening unit would be entered in the left hand column and the particular staff attorney to whom the case is assigned would be entered after the word "assignment". The card would be moved to the category designated as "screening". Fourth, criminal cases with oral argument requested are sent to the screening unit director for screening. The same procedure as outlined for criminal appeals without oral argument should be followed here. Upon the return of any matter from the screening unit an immediate submission and assignment may be shown and filed accordingly or placed in the "awaiting submission" category as may be appropriate.

When an opinion is filed the appropriate entry is made and the status card is moved to the category "awaiting mandate". This section is then reviewed periodically for all cases where the appropriate 33 days have passed and no re-hearing is pending. There upon the card may be pulled, given to the mandate clerk for the preparation of the mandate, then given to the close out clerk for the return of the record, and finally held in a closed section until such time as its statistical use for an annual report is completed. Finally, it is destroyed.

Obviously, the advantage that this type of card system with its arrangement offers in terms of flexibility is to provide the staff of the clerk's office with an exceedingly simple monitoring system. Now, the entire number of all cases awaiting a particular step in the appellate process would all be grouped

in the same category for frequent review by the staff as to any overdue date on the particular preprinted line. Now, as each category is reviewed at intervals, letters for telephone calls may be made in an attempt to police and move appeals along. The clerk's staff, and indeed the entire court, would now have at their disposal for immediate retrieval the exact number and identity of cases in any particular status category. Now, a complete and almost instant summary of the number and short title of all appeals in a particular category can be furnished to the court upon request.

As referred to above, the status cards serves as an assignment record for the clerk. Another example of the flexibility of this in-house record is that instead of typed assignment sheets, the status cards themselves may simply be grouped, photostatted and sent to a judge or screening attorney as indication of his pending work load. By showing the in-court assignment on the status card, it also doubles as a charge out card against the assignee.

One other benefit of this card system must be mentioned. This type of basic case history document provides a data base for the compilation of various types of court statistics ranging from the types of filings made to the time intervals between steps. The cards may be easily handled by a statistician, sorted into category, counted, and time intervals computed. All filings made within any particular time period are in sequential order and may be pulled for processing. On the other hand, cases closed within any time period can be immediately turned over to the statistician as a data base for the final compilation of dispositions and other necessary statistical information.¹

1. I would strongly urge that the clerk of the court publish a full annual report discussing in detail the statistical data collected on the work of the Florida District Court of Appeal. In addition, once an appellate clerk has established a system for continuing collection and collation of statistical data, reports should be submitted to the court at regular intervals (monthly or quarterly) to keep the court advised of the ongoing work of the court. After familiarity is achieved with the system and data, the clerk will be able to move into the area of projection which will be particularly essential to the court in terms of the potential to act before the fact.

D. Filing and Storage

The difficulties with the present filing system have already been discussed in Volume I of this study. Because lower court records and transcripts vary in size, are eventually returned to the trial court and receive different processing while they are in the appellate court, they should be kept separate from the file of the Court of Appeal. Consequently, the present system of file jackets containing both the lower court record, transcript and the separate Court of Appeal file, necessitates the pulling of a large and weighty mass of papers when all that may be needed is the Court of Appeal file.

All pleadings filed with the Court of Appeal, correspondence, copies of orders, briefs, opinions and all other items which constitute the record in the Court of Appeal, should be brought together into a single file secured by an Acco fastener and arranged in chronological order of receipt. This file should be kept in lateral file cabinets in the work area. Ideally, these lateral cabinets should be of modular design so that they may also serve as dividers between work stations.

The lower court record and transcript should be filed in the file room. For the present time they may be stored in the file jackets currently in use with identifying labels bearing the Court of Appeal number and short title outside the jacket. However, the present wooden assemblage is totally inadequate for securing the greatest possible number of lineal filing inches for the court. It is recommended that a CONSERV-A-FILE V would be ideally suited for the present file room. The file jackets could be done away with because records could be filed laterally on the rolling unit, separated by dividers, with the docket number affixed to the shelf edge.

It need hardly be pointed out that an appellate court reviews on the record of the lower court. Consequently, all that the assigned judge should receive

from the clerk's office is the lower court record. All judges on the panel already have copies of the briefs and any other important pleading documents that are necessary for decision. Therefore, it is not only unnecessary to send the Court of Appeal file along with the lower court record, but it seriously impairs the operation of the clerk's office since its own court file, which is constantly in use, is being needlessly transferred from judge to judge and not available in the office.

E. Minute Book

The minute book developed as a result of the oral tradition within which English law evolved. Even today, aspects of this oral tradition are maintained in England, although they have long been discontinued in the United States. During the medieval development of English law, legal proceedings were initiated by writs prepared by chancery clerks. The writ constituted a formal written notice to the defendant and the court. However, with the exception of a judgment and execution for the sheriff, all other proceedings, including appellate court opinions, were rendered orally. Consequently, there were never any individual court files. Lacking any written pleadings or opinions, the technique that developed to maintain a record of official court proceedings was to have a clerk or reporter record the official oral proceedings and judgments in a daily minute book of the court. The minute book was then the official and only court record which afforded retrieval by means of date, index in front of the minute book, or memory.

In the United States the oral tradition has long been discontinued in all courts of record -- particularly after the advent of mechanical means of printing and reproduction. However, the hand of history is very heavy and can leave its indelible mark in many areas long after any function has been dissipated.²

2. The oral tradition continues in Great Britain where opinions are still rendered orally from the bench immediately after oral argument. Appellate court opinions in the United States are written with long, arduous labor, but the United States Supreme Court still maintains a decision day when all justices and parties have to sit through an oral reading of opinions.

This is the minute book -- a vestige of the historical tradition of English law serving absolutely no function whatsoever in today's court record keeping system. Records are now kept within a written tradition based upon court files and a written case history document. Daily transactions are recorded within the case record document. All indices are tied to the individual case. Daily proceedings claim no role whatsoever in today's record keeping system. Yet courts continue to pour arduous and long hours into the keeping of minute books which serve no function whatsoever.

It is hoped the reader will excuse this historical digression. There is purpose to all this: it is hoped that if one understands the true purpose and function of the minute book, one will realize its total uselessness today. Yet appellate courts in this country, willing to accept the latest mechanical fads in whole, continue to maintain the minute book. Indeed, it is hard to think of any other single item in an appellate clerk's office which is held onto with such blind devotion. Perhaps all of this simply indicates a new law: that which is totally without function is maintained with the greatest tenacity.

The clerk's office of the Fourth District Court of Appeal has taken an immense step in discontinuing the typed minute book and substituting therefore photostatic copies of final orders, opinions and mandates, appropriately paginated. However, even this vestige is costly, time consuming and of no functional value at all. It is hoped that reason will prevail and even this truncated minute book will disappear altogether.

F. Oral Argument Calendar

The present oral argument calendar is a document of luxurious layout. Its form should be reduced to, at the minimum, a single 8-1/2" x 11" page for each day of oral argument (see exhibit 7).

In addition an inordinate amount of time is consumed in the preparation

of the calendar by typing individual slips for each submission, then engaging in a lengthy process of arrangement in consultation with the chief judge. The calendar clerk should simply work with photostats of the docket sheet which contain all of the pertinent information as to attorneys, location, oral argument, et cetera. Once the arrangement is concluded on the basis of the photostats, the final calendar can be typed up quickly in the form as indicated.

G. Opinion Process

The process stencil procedure for preparing and duplicating court opinions is unnecessarily archaic and time consuming. Even though costly, the court should pursue the alternative of securing a printing operation of its own. An A/M 1250 press and an A/M 670 50-pocket sorter should be secured for court printing on court premises. A filing clerk could easily be trained to operate the machine on a part-time basis. The important point here to note is that the volume of opinions must inevitably increase at an exponential rate. This is not only the most ideal printing operation for opinions, but the operation would also be able to accommodate court forms, letterheads, et cetera, and thereby eliminate all outside printing costs.

If the printing problem could be solved, the balance of the opinion process currently in operation would be sufficient with one major exception. When the finished opinion is received from the assigned judge, the lower court record should be immediately refiled in the file room. The opinion should be sent to the printer for the running of the required number of copies. It should be then returned to the opinion clerk, who would set up a temporary file, identified by the docket number, with the opinion copies inserted. Also in the file would be the original of the opinion, the facing sheet and the typed mailing envelopes. These opinion files would be kept in a separate file until each Friday opinion day when they may be easily pulled, sorted, mailed, and put into the Acco bound file pulled by the file clerk.

Presently a weekly release sheet of opinions with elaborate time information is prepared. It is strongly recommended that a simple notice of release containing only the docket number, title, code style of opinion and identification of the panel members be prepared on a weekly basis. If a statistical time study is desired, this should be done on a monthly basis by the statistician working from the case status cards. This monthly opinion time study sheet would be more useful as an in-house document for the judges because it could group the opinions under each writing judge.

In turn, the abbreviated weekly release sheet could be typed up in serial order, grouped into criminal and civil cases, with a photostat serving as a receipt to the various State offices.

Our volume appellate courts are plagued with an inflation of words and costs. Judicial time is being squandered on the inevitable trivia that works its way into a system where there is an appeal as of right. Our judicial waters have been chocked with the inconsequential, the trivia, the garbage being ineffectively presented and inadequately briefed. Indeed, the time is long overdue for the profession to address itself to the problem of legal pollution in the courts. Many techniques have been introduced recently to attack this problem of legal pollution. The non-publication of opinions is possibly the most benign and mild technique that has been introduced into the judicial system. Happily, it has been accepted to a certain degree by the Florida Courts of Appeal. However, an examination of the official reporter reveals that a list of all per curiam affirmances, dismissals and final orders are still published.³ In addition, brief per curiam opinions of no precedential value are still being printed in full,⁴ even though they are incapable of headnoting and indexing. These non-headnoted opinions and lists of final dispositions are not only useless in terms of precedent, but serve no value whatsoever. It would be a relief to see the Fourth District Court of Appeal take the initiative in eliminating this useless publication altogether.

3. See 336 So 2d 112-118

4. See 336 So 2 d 143, 388, 1196-7, 1204-5, 1261

The point to this seeming digression on publication of opinions and dispositions is that the work burden it places upon the clerk's office is clearly intolerable. The time consumed in identifying and monitoring an appeal from a final order or per curiam affirmance to rehearing, to issuance of mandate, all in order to keep publishers advised of something the Bar or Bench can make no use of, is utterly overwhelming. Discontinuing the publication of everything except full opinions capable of headnoting would result in a substantial savings of library cost to the profession and manpower to the Court of Appeal.

If the Fourth District Court of Appeal declines to take this lead in stopping worthless publication, then the clerk should be permitted to withhold sending final orders and per curiam affirmances until the time for rehearing has run. The monitoring and notifying of rehearing to prevent publication of a final disposition is a costly indulgence to both the court and publisher.

H. Mandates

Another anomaly in the paper work jungle of appellate clerk's offices is the mandate. The present mandate form of the Fourth District Court of Appeal is a pre-printed form requiring the time consuming insertion of the county from which the case arrived, the title of the appeal, the docket numbers in both the Court of Appeal and the trial court, the date the opinion was rendered and the date of the mandate. All of these items are either already in the opinion or could be placed on the opinion. After all of this paper work the mandate simply concludes in pre-printed language:

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause in accordance with the decision and judgment of this court, the rules of procedure and the laws of the State of Florida.
(emphasis supplied)

In effect, after having gone through all of this clerical work the mandate refers the lower court to the opinion and directs it to do what the opinion says. This being the case, simple common sense would dictate that there should be a

court rule stating that the receipt by the lower court of an opinion stamped mandate is in fact the mandate of the appellate court. This piece of legal magic would easily save the time of one clerical staff person and substantial paper costs as the volume continues to go up.

Since this extraordinarily simple rule change may not likely be secured easily, it is recommended that the mandate form be changed so as to eliminate all typing. This form mandate which appears as exhibit 9 need only be rubber stamped as to the date, presealed and stapled to the face of an opinion.

I. Motion Practice

Presently, there are six distinct motion procedures in the Fourth District Court of Appeal. First, original proceedings heard as motions are sent directly upon receipt to be round robined to a prearranged panel. Entry of the assignment is made upon a work log. Second, petitions for rehearing are sent to the assigned judge 14 days after receipt and thereafter round robined. No formal record or log is kept.

Third, upon receipt the balance of the motions are reviewed by the clerk of the court who determines which of the motions fall into the category of administrative motions where authority is delegated to the clerk. If a motion falls within his administrative authority, it is immediately granted or denied. Fourth, on a prearranged motion day, the motions are attached to the outside of the file jacket and placed upon a counter for review by the chief judge. The chief judge acts upon certain categories of motions by endorsing a grant or denial upon the face. Fifth, those motions deemed suitable for oral argument are placed upon a formal "motion calendar" and mailed to the attorneys of record. Copies of the motion, together with the "motion calendar", are sent to the panel of judges sitting the following week. Sixth, the balance of the motions which allegedly go to the merits, such as motions to dismiss, strike or quash, are placed upon a "conference calendar" and round robined to a panel of judges. The "conference calendar" is simply a legal pad with holograph entries.

Basically, motions in appellate cases fall into generic categories. The court as a whole should set the basic policy for the handling of various categories of motions. An appellate court clerk can then have delegated to him the power and responsibility to dispose of all motions within an appeal on the basis of the policy set by the court. Although the Fourth District Court of Appeal already has an administrative motion policy, it has not been extended as far as it possibly can. The time of the judges should be directed solely to substantive issues presented by motions and not to procedural or administrative matters.

It is recommended that, aside from petitions for rehearings which must be addressed to the original hearing panel, firm guidelines be established to extend the administrative disposition of all procedural motions by the clerk. The balance of all motions and original proceedings heard as motions, where there is no patent need of emergency, should be pulled together into a single motion calendar and directed to a rotating panel of the court.

Even here the clerk, or a designee under his supervision, should prepare a memorandum for the court on each item appearing on the motion calendar.

This writer reviewed two weeks of motions addressed to the chief judge and to a panel upon the "conference calendar" at an interval of six-months. Many of the items were susceptible to administrative handling by the clerk. Even those appeals on a "conference calendar" allegedly going to the merits of the appeal are so lacking in any substantive issues that a recommended disposition can be made by the clerk within a sentence or two inside the body of the motion calendar. For example, the conference calendar for one week contained nine motions to dismiss or quash. Three of them were in criminal appeals where the public defender initiated the motions for such grounds as failure to file a brief, failure to file assignment of errors, and an undisputed statement that the appeal was moot. It is questionable that the public defender should be filing motions to dismiss on such highly technical grounds in indigent appeals. In any event, the failure to comply with rules should be the basic function of the clerk's office in its

monitoring procedure. As for the six civil appeals, only three had answers. The various grounds in the motions were (1) the appeal was not filed timely, (2) the appellate court did not have jurisdiction of the appeal, (3) the brief was not filed timely, (4) the appeal was moot and (5) two motions alleging that the issue raised in the brief was not in the record. All of the allegations contained in these motions were susceptible to verification by the clerk or a staff member. The net result being an appreciable saving of judicial time.

Obviously, it would be necessary to have a career staff attorney in the clerk's office with primary responsibility to dispose of administrative motions and to prepare memoranda on the balance of the motions going out on a weekly motion calendar.

The form of response from the Fourth District Court of Appeal to motions largely takes the form of a rubber stamp grant or denial upon a xeroxed copy of the first page of the motion. Although this procedure is admittedly a great time saver and may very well be necessary under the present staff and work limitations of the clerk's office, the dignity of the office and the court would be raised by the eventual issuance of formally typed orders. Since the orders are highly standardized in language, the typing can be achieved with minimal cost and time by the purchase of a Magcard type automatic typewriter.

J. Mail Processing

An HA 2 GY Simplex Time Recorder should be secured and the mail clerk or secretary, after opening every item of mail -- whether it be a pleading paper, piece of correspondence, brief or what have you -- should be stamped "received" on it so that a reliable record would be maintained as to the time and date of receipt of any item.

At the present time hand stamps with dies indicating "filed" are being used if a determination is made that a particular paper is proper with respect

to all filing requirements. Since filing is almost always now defined as acceptance by a clerk for inclusion in a permanent record, the presence of the document in the file and entering of the particular item on the docket of the official history of the case is clear evidence of the intention to accept the item for filing.

It would seem that a good deal of energy is wasted with hand stamps to no real purpose. The time stamp machine with a die for "received", as well as the name of the clerk and the court on the die, should be substituted for any and all hand stamps with special words or directions.

After opening and uniform time stamping of all documents, the mail operations should remain basically as it is at the present time except for a few modifications. After review by the mail clerk, the mail should be divided into three basic groups. The first group would be all initial filings. Initial filing should not go to the appeal clerk directly for docketing, but they should be first referred to the clerk or his designee for review or screening on the basis of the following grounds: (1) jurisdiction, (2) timeliness, (3) sufficiency of documents under the rules. The second group would be proper pleading items to be docketed in pending appeals. These would be directed to the docket clerk. The third group would consist of general correspondence or requests. These would be directed to the clerk. The third group would consist of general correspondence or requests. These would be directed to the clerk or the specialty staff person in the area.

The mail clerk should, as at the present time, continue to review all pleading papers in pending appeals for sufficiency under the rules. However, a permanent record should be kept with respect to any pleading paper returned or requests for additional copies or information. This permanent record can take the form of a simple and quick pencil notation on the inside cover of the file folder indicating the date, the recipient and the time.

K. Work Flow

After mail processing, the present flow of work to clerks with individual

responsibility for assigned office tasks is appropriate. However, individual responsibility should not lead to insularity. Each clerk should be trained in each office task so that work shifts may be made when necessary and each individual may have a total comprehension of the entire appellate procedure. Consequently, personnel should be trained in all office tasks with the aid and development of an office procedure manual. Indeed, individual work tasks are so highly technical and routinized that work assignments should be rotated at regular intervals to break the monotony.

Certainly a single filing clerk is essential for office traffic in the particular confined quarters of the Fourth District Court of Appeal. The present job orientations of the appeals and docketing clerks are also desirable with their total job responsibility. However, other individual tasks such as the preparation of orders, mandates, opinions, et cetera, should have responsibility extended to pull and enter items upon the official docket sheet at the end of their work routine. The present system of preparing photocopies or "case status" slips to be transferred to the docketing clerk is a wasteful duplicative operation. The concept of individual responsibility for work tasks includes the necessary follow up on each item.

The single basic document which should have the least number of people involved in pulling and making entries is the case status card. After the case status card has been initiated by the appeal clerk and transferred to the case status clerk, the docket clerk should keep a simple work sheet at her work position upon which she would enter only the docket number and the record or type of brief received in any pending appeal. This work sheet would be then transferred at the end of the job task to the status card clerk for immediate hand entry upon the status card and transfer into the appropriate new category.

The use of the present tickler file is adequate. However, as the basic appeal court file is developed, it will be more convenient and orderly to maintain pleading papers in that file immediately. Consequently, a simple tickler diary

book or calendar listing holograph docket numbers and items may prove to be a more useful tool.

The purpose of a telephone switchboard in the clerk's office for the entire court is somewhat of a mystery. Calls to judges' offices or staff personnel are not screened, but transferred immediately to the location. The net result is a considerable distraction for the other job tasks of the switchboard operator. If the present switchboard is maintained, then the other assigned job tasks of the switchboard operator should be those demanding the least amount of concentration in the office.

L. Office Procedure Manual

For purposes of training, efficiency and uniform operation, an office procedure manual should be developed. An appropriate format for a court manual is illustrated as exhibit 9. It should be a similar printed form, in a looselead notebook, with copies for each employee.

The task of preparing an office manual is not as impossible at the present time as it may appear on first thought. If each individual writes down his respective task in a step by step fashion, the resulting product need only be reviewed and reworked for form by an editor. There you have the basic office procedure manual that can be immediately put into use. At his leisure, the editor may fill in the form numbers, appropriate statutory or rule citations and any special comments. The manual should be revised periodically thereafter.

A periodic review of office forms is also mandatory. All office forms should be reviewed for design and use, eliminating and consolidating wherever possible. They should also be coded with a numbering system for identification and historical purposes.

M. Traffic Manager Concept

Too often an appellate clerk's office is nothing more than a receptacle for filing papers. In point of fact, the traditional role of the appellate clerk

places him in a unique location to offer invaluable assistance to his appellate court in the administrative organization of its work. I have already discussed the potential expanding work of the clerk in the area of monitoring appeals by means of a manual record system specially designed for monitoring. I should now like to offer the proposition that he can be of even more service in the role of traffic manager of the court's workload. In the typical volume court situation you have an enormous amount of appeals or traffic moving towards a central point -- that is, opinion or final decision. The clerk, under the policy direction of the court, is in a singular position to map out several routes to this central point and channel the traffic accordingly. In other words, on the basis of his advance knowledge of the character of individual appeals, he is able to insure that they receive the appropriate differential treatment.

By the proper utilization of a master index system it would be possible for a clerk to quickly identify companion cases or co-defendants in criminal proceedings and prepare administrative orders consolidating these matters for hearing so that the court would not waste its time and resources in considering piecemeal appeals -- sometimes by totally separate divisions or panels.

With the introduction of a central research staff, the clerk's role as a traffic manager is greatly expanded, particularly on the level of the intermediate appellate court. The research staff, it should be remembered, does the mundane non-decisional work involved in an appeal. In addition, it should have the responsibility of identifying the issues and evaluating the appeals into categories. With the invaluable assistance offered by the legal memoranda prepared by the staff, the clerk's role as traffic manager may be increased to the point where he can now screen appeals by nature prior to his traditional role of submitting the appeals to the court. Foremost in this area of screening by nature would be the elimination of the trivia, the overlapping, the redundant. Once these are categorized, they could be submitted to the court on a special summary disposition docket and dispatched by the court by means of simple orders or memorandum

opinions.

Appeals may also be grouped for submission to a panel or division. The potential for grouping is almost limitless. Appeals may be grouped by issue, by nature, by statute, or any other classification that will assist the court in intensifying its focus and resources in a particular area.

It is not unusual for a new issue to be raised by a series of appeals pending in the court. It is both feasible and desirable, in order to conserve the resources of the court, for a lead vehicle on a particular issue to be identified and advanced to the court for decision while the remaining appeals are kept from submission by the clerk. Once the court has disposed of the lead vehicle, then its opinion and reasoning can quickly be applied to the remaining appeals in a summary disposition fashion.

In the situation of a multi-panel court, the clerk, with the assistance of the evaluations prepared by the research staff, is able to balance the quality of the workload potential going before each panel.

These are but some of the functions that may be performed by the clerk of an appellate court in his role as traffic manager for the court's workload.

This writer wishes to express his deep appreciation for the cooperation extended to him by the Clerk of the Fourth District Court of Appeal of the State of Florida. He wishes to direct a special tribute towards the eight dedicated, talented and charming women who constitute the Clerk's staff. Their patience made this study possible, and their eager receptivity to new ideas will make the future more tolerable.

EXHIBITS

74-1593

TAMARAC, CITY OF,

Defendant-Appellant,

vs.

JOHN DOE,

Plaintiff-Appellee.

Broward # 72-1326

74-1593

DOE, JOHN,

Plaintiff-Appellee

CITY OF TAMARAC,

Defendant-Appellant.

Broward # 72-1326

Exhibit 1

DISTRICT COURT OF APPEAL OF FLORIDA

Fourth District

Case No. 72-11731
Nature Appeal

Attorneys of Record
Haven Supply Co., Inc., Plant City, Fla

Parties

Myron H. Burnstein

THE CITY OF TAMARAC,

Appellant,

v.

LEADERSHIP HOUSING SYSTEMS,
INC. and SIMON ZUNAMON, as
Trustee,

Appellees.

Prockunt, Omsud + Parks

\$ 25.00	Fee	Receipt
Court	Circuit	
County	Broward	
Judge	Wissinger	
Judgment	Order	
Sentence	Preced.	
Rendered	11-5-74	
Disposition		
Panel	6 J. J. ...	Date 9-76
Book-Pa		Book-Pa
Mandate		27, 3
Citation		

1) 10-13-75

Briefs—Appellant	2-21-75	Appellee	4-7-75	Reply	5-2-75
Request for Oral Argument—Appellant	2-21-75	Appellee			
Record	5-13-75	5-13-75	5-13-75	5-13-75	5-13-75
Rehearing	10-7-75	10-9-75	10-9-75	10-9-75	10-9-75
Date	10-7-75	10-9-75	10-9-75	10-9-75	10-9-75

Date	Stipulation or Motion	Date	Order
11-20-74	Cert. copy notice of appeal filed	11-15-74	
3-11-75	Notice of appearance on additional counsel for appellees by Prockunt, Omsud + Parks		
3-12-75	Stip. ext. Appellee's brief, 4-6-75 + Appellant's reply brief to 5-6-75	3-21-75	grant to 4-6-75 + full order of appellants have in 5-6-75 to file reply brief
3-31-75	Notice of Change of Address of Appellee's counsel		
5-30-75	Appellee's mot for advancement of cause, or supersedeas bond w/ affidavit of Murphy in support of appellee to accelerate appeal		
6-2-75	Appellant's response to mot. for advancement of cause, or supersedeas bond	6-12-75	Mot to adv cause & No. of rev. supersedeas
6-5-75	Appellee's reply in support of mot for advancement of cause, or supersedeas bond		
7-9-75	Appellee's opposition to appellee's suggestion		
11-10-75	Cost. to Sup. Ct. w/ certificate of filing		
6-24-76	Sup. Ct order dissolving ord.		

CLOSED

ATTORNEYS OF RECORD

ORIGIN

JUDGE

LOWER CT. No.

LOWER CT. JUDGT.

NATURE

FEE: RECEIPT:

FEE: RECEIPT:

FEE: RECEIPT:

CERTIFIED COPY NOTICE OF APPEAL FILED

APPELLANT BRIEF FILED

O/A REQUEST

SERVICE:

APPELLEE BRIEF FILED

O/A REQUEST

SERVICE:

APPELLANT REPLY BRIEF FILED

SERVICE:

RECORD ON APPEAL

SUBMITTED TO PANEL:

OPINION FILED

MANDATE SENT

RECORD RETURNED

DOCKET No. 74-1593

CITY OF TAMARAC,
Defendant-Appellant,

v.

JOHN DOE,
Plaintiff-Appellee.

ATTORNEYS OF RECORD

Myron H. Burnstein
1500 Palm Beach Lakes Blvd.
West Palm Beach, FA

Podhurst, Olsech & Parks

By:
2000 Palm Beach Lakes Blvd.
West Palm Beach, FA

ORIGIN Broward

JUDGE Weissing

LOWER CT. No. 72-11731

LOWER CT. JUDGT. 11/5/74

NATURE Appeal

		FEE:	RECEIPT:
		FEE:	RECEIPT:
11/20/74	CERTIFIED COPY NOTICE OF APPEAL FILED	11/15/74	FEE: \$25 RECEIPT: 939
2/21/75	APPELLANT BRIEF FILED & Appx.	O/A REQUEST yes	SERVICE: 2/21/75
4/7/75	APPELLEE BRIEF FILED	O/A REQUEST	SERVICE: 4/7/75
5/2/75	APPELLANT REPLY BRIEF FILED		SERVICE: 5/2/75
5/13/75	RECORD ON APPEAL	File, Exhibits	
9/10/75	SUBMITTED TO PANEL:	Cross, Mager, Downey	
9/26/75	OPINION FILED	PC Affirmed	
6/28/76	MANDATE SENT		
7/9/76	RECORD RETURNED	UPS	
3/11/75	Notice of Appearance Appee. Counsel		
3/12/75	Stip. Appee Brief to 4/6/75; Reply to 5/6/75		
3/21/75	Order Grant Brief Ext.		
5/30/75	Motion Appee Advance Cause		
6/2/75	Answer to Mo. Advance		
6/5/75	Reply to Answer Mo. Advance		
6/12/75	Order Deny Mo. Advance		
10/7/75	Rehearing by Appt.		
10/9/75	Answer to Rehearing		
10/27/75	Order Deny Rehearing		
11/10/75	Cert. Sup/Ct W/Certif. of Filing		
6/24/76	Sup/Ct. Order Deny Cert.		

SHORT TITLE		DOCKET NO.
LOWER CT. JUDGT.		
	APPELLANT BRIEF O/A APPELLEE BRIEF O/A REPLY BRIEF RECORD READY DATE SCREENING ASSIGNMENT SUBMISSION AND ASSIGNMENT OPINION RE-HEARING	RETURN

SHORT TITLE		DOCKET NO.
LOWER CT. JUDGT.		
	APPELLANT BRIEF O/A APPELLEE BRIEF O/A REPLY BRIEF RECORD READY DATE SCREENING ASSIGNMENT SUBMISSION AND ASSIGNMENT OPINION RE-HEARING	RETURN

Awaiting Mandate

Submitted

Screening

Awaiting Submission

Awaiting Record

Awaiting Reply Brief

Awaiting Appellee Brief

Awaiting Appellant Brief

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

1525 Palm Beach Lakes Blvd.
West Palm Beach, Florida

Wednesday, June 1, 1977

Attorneys endorsed on the call are entitled to oral argument. Attorneys are requested to appear at 9:00 in the forenoon on the date indicated above, prepared to submit their oral argument. In criminal cases oral argument is limited to 15 minutes each side; in civil cases, 20 minutes each side. Absence of counsel when his case is called shall be deemed as waiver of his right to oral argument.

No continuances will be granted except upon a showing of extreme hardship.

1.	76-1483	William E. Freber v. State of Florida	James K. Green Marsha G. Madorsky
2.	75-1605	Frederick D. Christie v. State of Florida	Paul M. Herman Harry M. Hipler
3.	76-278	Willie G. Davis v. State of Florida	Tartjana Ostapoff Marsha Madorsky
4.	75-1737	James Scott v. State of Florida	Geoffrey D. Cohen Richard P. Zarersky
5.	76-1721; 76-1735-8 76-1745-50 76-1787;76-2334 76-2385	State of Florida v. John L. McLaughlin, et al	Basil Diamond; Tatjana Ostapoff; Leon Cheek; Mueller & Kirksonnell; Richard E. Mandell
6.	75-1639	Willie B. Scott v. State of Florida	Steven H. Parton Anthony J. Musto
7.	76-2136	F. Malcolm Cunningham v. State of Florida	Cone, Owen, Wagner, et al Cunningham & Cunningham Paul H. Zacks
8.	76-1576	Alexander Dicaprio v. State of Florida	John W. Tanner Anthony C. Musto

STATE OF FLORIDA
DISTRICT COURT OF APPEAL
FOURTH DISTRICT

MANDATE

This cause having been brought to this Court by appeal, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause in accordance with the opinion of this Court attached hereto and incorporated as part of this order, and with the rules of procedure and laws of the State of Florida.

WITNESS the Honorable Gerald Mager, Chief Justice of the District Court of Appeal of the State of Florida, Fourth District, and the seal of the said Court at West Palm Beach, Florida on this



Clerk of the District Court of
Appeal of the State of Florida,
Fourth District.

NOTES AND COMMENTS

PROCEDURE AND DESCRIPTION	FORM NO.	STATUS
XIV. Rehearings		
A) Check each rehearing for proper number of copies and proof of service.		R. 32
B) Check date of receipt of the motion against decision date to insure that motion is filed within the proper 20 day period.		R. 32
C) If not timely, write "Returned" over the received date stamped and return to attorney with form letter sending carbon copy to opposing counsel.	L. 15	
D) If rehearing is timely, designate date under Rehearing Information section. Enter date next to the word "Rehearing" on status card and move status card to Rehearing category.		
E) Insure that \$25.00 filing fee is present. If not, send bill to attorney.	F. 2	R. 40
F) Telephone Joyce so that West and Callaghan are notified. Fill out rehearing form provided and mail.	F. 21	
G) When rehearing briefs are received docket date under Rehearing Information.		
H) When timely brief in opposition is filed, or time has expired for brief in opposition, send form note to Executive Officer.	F. 20	
I) Upon receipt of assignment advice from Executive Officer docket the date of submission of rehearing.		
J) When order on rehearing received, enter date date and check action on decision line and send copies to all attorneys of record.		
K) Move status card to Awaiting Remittitur category.		

END