

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR  
INDIAN RIVER, MARTIN, OKEECHOBEE, AND ST. LUCIE COUNTIES,  
STATE OF FLORIDA

**AMENDED ADMINISTRATIVE ORDER 2020-16**

**RE: Appellate Division of the Circuit Court**

WHEREAS, the Florida Legislature enacted chapter 2020-61, Laws of Florida, repealing the circuit court's authority under sections 26.012 and 924.08, Florida Statutes, to hear appeals from county court decisions; and

WHEREAS the legislation did not contain a savings clause, thereby causing the circuit court to lose jurisdiction over pending appeals subject to the legislation and causing such appeals to be transferred to the District Courts of Appeal as of January 1, 2021; and

WHEREAS, the Chief Justice of the Florida Supreme Court has requested that circuits make all necessary efforts to conclude as many pending appeals as feasible by December 31, 2020 to mitigate the number of cases that must be transferred to the District Courts of Appeal;<sup>1</sup> and

WHEREAS, the further effect of the legislation is that the circuit court will have jurisdiction over far fewer cases after December 31, 2020; and

WHEREAS, to date, the Nineteenth Judicial Circuit has utilized regularly scheduled appellate panels to process appeals and panels are no longer justified due to the reduced number of cases reviewable in circuit court; and

WHEREAS, there is presently a need to restructure and restate the administrative procedures for processing of cases reviewable in circuit court after December 31, 2020;

**NOW THEREFORE** pursuant to the authority conferred upon the chief judge by Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED** as follows:

---

<sup>1</sup> In accord with the request of the Chief Justice, appeals from decisions of the county courts pending as of the effective date of this Administrative Order may be assigned to and individually presided over by the chief judge and any other circuit judge selected by the chief judge.

## **I. Case Assignment**

Effective January 1, 2021, cases filed with the Clerks of Court pursuant to Florida Rule of Appellate Procedure 9.030(c) shall be administratively processed as set forth below:

A. The following cases shall be assigned to the appellate division upon the filing of a notice of appeal:

1. All appeals of final and non-final orders of code enforcement and local construction licensing boards pursuant to sections 162.11, 489.127(5)(j), and 489.531(4)(j), Florida Statutes;
2. All appeals in noncriminal infraction cases pursuant to sections 316.0083(5)(f), 318.16(1), 327.73(7), 376.071(2)(g), 376.07(3)(f), 379.401(1)(h), 379.4015(1)(j), 379.412(2)(a)4., 556.107(1)(h), 569.005(6), and 767.12(4), Florida Statutes;
3. All appeals of voluntary binding arbitration decisions pursuant to section 44.104(10), Florida Statutes;
4. All appeals from the administrative denial of limited partnership status reinstatement pursuant to section 620.1811(2);
5. All appeals by a voter whose name has been removed from the statewide voter registration system due to a determination of ineligibility pursuant to section 98.075(7)(b)5., Florida Statutes; and
6. All appeals of the supervisor of elections' determination of voter ineligibility pursuant to section 98.0755, Florida Statutes.

B. The following cases shall be assigned to the appellate division and shall be treated as petitions for writ of certiorari:

1. Appeals of local development orders issued pursuant to section 163.3215(4), Florida Statutes;
2. Appeals of annexation or contraction ordinances pursuant to section 171.081(1), Florida Statutes;
3. Appeals of orders transferring local services pursuant to section 190.046(6), Florida Statutes;

4. Appeals of final orders to relocate utility facilities pursuant to section 337.404(3), Florida Statutes;
5. Appeals of administrative decisions of the Department of Highway Safety and Motor Vehicles pursuant to sections 321.052(2), 322.2615(13), 322.2616 (14), 322.27(7), 322.31, and 322.64(13), Florida Statutes;
6. Judicial review of any special law or ordinance enacted, and any dismissal of a petition pursuant to section 165.081, Florida Statutes;
7. Judicial review of airport zoning decisions pursuant section 333.11, Florida Statutes;
8. Review of nonfinal orders of lower tribunals pursuant to Fla. R. App. P. 9.030(c)(2).

C. All petitions for common-law certiorari shall be assigned to the appellate division, unless the petition is combined with a complaint for another form of relief (e.g., injunctive, declaratory, prohibition, mandamus, quo warranto). Petitions that are combined with another form of relief shall be assigned to the civil division. If, at any stage of the case, the assigned judge determines that certiorari is the appropriate remedy, the case shall be transferred by order to the appellate division.

D. Extraordinary Writs

1. All petitions for writs of prohibition, mandamus, quo warranto, and petitions for all writs relief which are within the circuit court's jurisdiction shall be filed in the civil division.
2. Petitions for Writ of Habeas Corpus
  - a. All petitions for writ of habeas corpus which are within the circuit court's jurisdiction, other than those which challenge a criminal conviction or sentence, shall be assigned to the civil division.
  - b. All petitions for writ of habeas corpus which are within the circuit court's jurisdiction and which challenge a criminal conviction or sentence shall be assigned to the criminal division and treated as motions filed pursuant to rules 3.850 or 3.800, Florida Rules of Criminal Procedure.

## **II. The Appellate Administrative Judge**

- A. The Chief Judge of the Nineteenth Judicial Circuit shall appoint, on an annual basis, a circuit judge to serve as an Administrative Judge for the appellate division (the “Administrative Judge”).
  
- B. The Administrative Judge:
  - 1. Shall be responsible for ensuring timely disposition of cases, including compliance with time standards under Florida Rule of Judicial Administration 2.250(a)(4) and compliance with the Florida Rules of Appellate Procedure as they apply to the duties of the clerk, and for ensuring that mandates are timely issued;
  
  - 2. Shall appoint a circuit judge to each appellate case on a rotating basis. A county judge is authorized to act as a circuit judge when assigned an appellate case by the Administrative Judge;
  
  - 3. May enter orders on motions concerning procedural matters in order to facilitate expeditious handling of appellate cases; and
  
  - 4. May issue orders to show cause and enter orders imposing sanctions on parties for violating the Florida Rules of Appellate Procedure pursuant to Fla. R. App. P. 9.410.

## **III. Duties of Clerks of Court**

### **A. Commencement of Cases**

- 1. To commence a case in the appellate division, the appellant or petitioner must file a notice of appeal, or a petition for writ of certiorari, and pay the full amount of the filing fees and costs or file a motion and affidavit requesting indigent status pursuant to rule 9.430, Florida Rules of Appellate Procedure;
  
- 2. Upon filing of a notice of appeal or a petition for writ of certiorari, the Appeal Clerk shall send all parties a copy of the NOTICE TO ATTORNEYS & PARTIES attached to this order as Appendix A;

3. The Appeal Clerk shall assign each case filed in the appellate division an appellate case number with an "AP" designation pursuant to the Uniform Case Numbering System; and

4. Once the Appeal Clerk has received the notice of appeal or petition for writ of certiorari, the Appeal Clerk shall promptly forward a copy of the notice or petition to the staff attorney of the appellate division of the Nineteenth Judicial Circuit ("the Staff Attorney") electronically.

B. All documents filed with the Appeal Clerk subsequent to a notice of appeal or petition shall be docketed under the appellate case number. As they are filed with the Appeal Clerk, all briefs, motions, responses, replies, requests for oral argument, and other documents shall be promptly forwarded by the Appeal Clerk to the Staff Attorney electronically.

C. Motions for Rehearing and Mandates

1. When a motion for rehearing, clarification, certification, or written opinion ("motion") is filed, the Appeal Clerk shall promptly forward it electronically to the Staff Attorney;

2. If no motion has been filed, the Appeal Clerk shall prepare and file the mandate sixteen days after the opinion is filed;

3. If a motion has been filed, the mandate shall be prepared and filed sixteen days after the opinion on the motion is filed, unless an order staying the mandate is received from a higher court; and

4. Upon filing, the Appeal Clerk shall send a copy of the mandate with all opinions attached to each party, the lower court judge or tribunal, and the Staff Attorney electronically or via U.S. mail.

D. The Staff Attorney is authorized to request and receive directly from the Appeal Clerk the case files, copies of files, and documents from cases, including evidence, filed in the appellate division.

#### **IV. Clerks of Administrative Tribunals**

When a clerk of an administrative tribunal is required to prepare a record on appeal pursuant to Florida Rule of Appellate Procedure 9.110(e), the record shall be prepared in

strict conformance with the requirements and deadlines stated in Florida Rule of Appellate Procedure 9.200 and transmitted to the Appeal Clerk in the applicable county by filing it via the Electronic Portal in the AP case. The Appeal Clerk shall forward the record to the Staff Attorney electronically.

**V. Effective Date; Superseded and Revoked Order**

This Administrative shall take effect immediately and supplement Administrative Order 2019-04 until January 1, 2021, at which time the provisions of this Administrative Order shall exclusively govern the appellate division and Administrative Order 2019-04 is superseded and revoked.

**DONE and ORDERED** this 27<sup>th</sup> day of October, 2020 at Stuart in Martin County, Florida.

A handwritten signature in cursive script that reads "Lawrence Mirman".

---

LAWRENCE MIRMAN, CHIEF JUDGE

## APPENDIX A

### NINETEENTH JUDICIAL CIRCUIT – APPELLATE DIVISION

#### NOTICE TO ATTORNEYS & PARTIES

RE: Nineteenth Judicial Circuit Appellate Division Procedures

The following rules of the Nineteenth Judicial Circuit Court should be followed by all attorneys and parties filing notices of appeal and petitions for writ of certiorari in this division, ***which includes appeals from noncriminal infractions, appeals from local administrative action, and petitions for writ of certiorari.***

**PLEASE READ THESE RULES TO ENSURE YOUR CASE WILL PROCEED IN A TIMELY FASHION AND TO AVOID DISMISSAL OF YOUR CASE FOR FAILURE TO FOLLOW THESE RULES.**

**A. Appeals Listed under Section I(A) of this Administrative Order**

1. A notice of appeal shall be filed with payment of the appropriate filing fees. For appeals of local government decisions, the notice of appeal must also be filed with the local government's clerk.
2. Persons seeking indigent status must file a signed application for determination of indigent status with the appeals clerk.
3. The notice of appeal and all other documents must be served on all parties or their attorneys.
4. The full name of the lower tribunal who entered the order or judgment being appealed and the date of rendition of the order must be indicated on the notice of appeal. See Fla. R. App. P. 9.900(a) for the form.
5. The Appellant must file with the notice of appeal a copy of (1) the final order/judgment/order of final administrative action being appealed AND (2) any subsequent order on a motion for retrial or rehearing, or in the case of final administrative action, an administrative order reviewing the action being appealed, if applicable.
6. It is the Appellant's responsibility to ensure that the record is transmitted in the form of an appendix. The electronic format of the appendix must comply with Fla. R. App. P. 9.220(c), and the electronic filing of the appendix must comply with the appeals clerk's policy listed on the E Portal home page, which involves serving the appeals clerk with the appendix to preserve the electronic formatting.

7. Please advise the Court in writing as soon as possible of any other cases pending before this Court involving related issues of which you have personal knowledge.

**B. Petitions for Writ of Certiorari** (appeals of non-final orders, zoning and land use appeals, and other quasi-judicial local government action addressed in Section I(B) of this Administrative Order)

1. A petition and appendix shall be filed together with payment of the appropriate filing fee within thirty days of the date of the order for which review is sought.

2. Persons seeking indigent status must file a signed application for determination of indigent status with the Appeal Clerk.

3. The petition, appendix, and all other filings shall be served on all parties or their attorneys and shall contain a certificate of service.

4. The Petitioner must include in the appendix a copy of (1) the final order/order of final administrative action being appealed AND (2) any subsequent order on a motion for retrial or rehearing, or in the case of final administrative action, an administrative order reviewing the action being appealed, if applicable. It is the Petitioner's responsibility to ensure that the local government clerk transmits the documents that form the record to the Petitioner to be filed as an appendix to the petition for writ of certiorari. The electronic format of the appendix must comply with Fla. R. App. P. 9.220(c), and the electronic filing of the appendix must comply with the appeals clerk's policy listed on the Electronic Portal home page, which involves serving the appeals clerk with the appendix to preserve the electronic formatting.

5. Please advise the Court in writing as soon as possible of any other cases pending before this Court involving related issues of which you have personal knowledge.

**C. Petitions for Writ of Certiorari Directed to the Department of Highway Safety and Motor Vehicles ("DHSMV")**

1. It is the policy of this Court to expedite petitions for writ of certiorari to review administrative action by the Department of Highway Safety and Motor Vehicles.

2. Petitioners should follow the requirements set forth above in Section B.

3. The Petitioner must include in the appendix a copy of the transcript of the DHSMV proceeding.

4. If the Appellate Administrative Judge determines that the petition complies with the rules of appellate procedure, the Appellate Administrative Judge will issue an

order to show cause granting the espondent 30 days in which to file a response to the petition and granting the etitioner 30 days after the response in which to file a reply to the response. Extensions of time in which to file a response or a reply may be granted only by stipulation of the parties or upon good cause shown.

**D. Motions**

1. Copies of any record material necessary for resolution of the motion should be attached to the motion as an appendix. See Fla. R. App. P. 9.300(a) for required content of and procedure for motions.
2. Motions shall contain a certificate of service showing service on all parties or their attorneys. Motions must also contain express representations (except on motions where it would be clearly inappropriate) that opposing counsel has been contacted and will or will not stipulate to the relief requested.
3. Responses to motions shall be promptly filed within 15 days of service of the motion. Failure to file a response within 15 days will result in the motion being decided without consideration of any response. No reply to the response will be considered unless specifically authorized by this Court.
4. In motions for extensions of time, attorneys and parties must establish a realistic target date for filing of a particular brief (for example, 30 days). A first request for an extension of time to file a brief will ordinarily be given favorable consideration if reasonable and not objected to by the opposing side.
5. Excessive and unnecessary motion practice is discouraged and may result in the imposition of sanctions under Fla. R. App. P. 9.410. See *Dubowitz v. Century Village East., Inc.*, 381 So. 2d 252 (Fla. 4<sup>th</sup> DCA 1979).

**E. Briefs**

1. All briefs shall be filed with the appeals clerk via the Electronic Portal. See Fla. R. App. P. 9.210 for required contents of and procedure for briefs.
2. An initial brief must be filed within 70 days of filing the Notice of Appeal. Your appeal may be dismissed if you fail to file an initial brief.
3. An answer brief must be served within 30 days of service of the initial brief, and any reply brief must be served within 30 days of the answer brief.
4. All briefs shall include a certificate of service showing service of the brief on the opposing parties or their attorneys.
5. A party's brief should contain all relevant authority published prior to submission of the brief. A notice of supplemental authority should cite only to newly discovered

cases (copy of the opinion should be attached to the notice) with a clear designation of the point on appeal to which the authority is pertinent. Argument is not permitted in the notice of supplemental authority.

**F. Oral Argument**

1. A request for oral argument must be filed as a separate document no later than 15 days after the last brief is due to be served. If granted, oral argument will generally be limited to ten minutes per side. If there are multiple parties on a side, then the parties must determine amongst themselves how to split the ten minutes.

2. A notice containing information about where the oral argument will be held will be served two weeks prior to the oral argument date. Oral argument may be held at the Indian River, St. Lucie, or Martin County courthouses. Your oral argument will not necessarily be held in the county where you filed your case.

3. Notices of unavailability are unauthorized and will not be considered. Requests for continuances of oral argument must be based on either a substantial commitment preexisting the receipt of the order granting request for oral argument or an emergency situation. Motions for continuance must be filed no later than 72 hours before the oral argument and will not be granted except on a showing of extreme extenuating circumstances.

4. Cases without oral argument are subject to the same review, analysis, and consideration by the presiding judge as cases that are orally argued. The parties will receive a copy of an opinion as soon as one is rendered by the Court.

**G. Other information**

1. Pro se parties are strongly encouraged to file a notice of primary email address with the Appeal Clerk. When possible, the Court will transmit copies of orders and opinions electronically via the E-portal.

2. If you do not have an email address, you must keep your mailing address current with the Appeal Clerk. To ensure you receive copies of all motions, orders, and opinions, you must file a notice of change of address when you move. It is not the Court's responsibility to track down your new address.

3. Requests for the status of the matter pending before the Court should be directed to the Appeals Clerk at the clerk's office in the county where your case is pending. Please be advised that the Appeals Clerk can only tell you what has or has not been filed into the appeal case file. Do not ask the appeals clerk legal questions, as he/she is not trained or licensed to give legal advice.