

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

ADMINISTRATIVE ORDER 00 -05

IN RE: Reassignment of Cases for Re-sentencing


WHEREAS in Heggs v. State, 25 Fla.L.Weekly S 137 (Fla. Feb 17, 2000) the Florida Supreme Court held Chapter 95-184, Laws of Florida, to be unconstitutional, thus invalidating sentencing guidelines changes included in that chapter; and,

WHEREAS in Trapp v State, 25 Fla.L.Weekly S 429d (Fla, June 1, 2000) the Florida Supreme Court determined that the window period for challenges to sentences based on Heggs, supra, runs from October 1, 1995 to May 24, 1997; and,

WHEREAS Madrigal v. State, 683 So2d 1093 (Fla 4th DCA 1996) holds in part that the original sentencing judge must re-sentence a defendant unless they are no longer on the bench or their presence is waived; it is therefore;

ORDERED that in all criminal cases in which a re-sentencing is required and the need for the original sentencing judge has not been waived in writing by the defendant, the case shall be reassigned to the judge who originally sentenced the defendant. The Administrative Judge for the Criminal Division shall reassign the cases as required irrespective of what division the original sentencing judge is now assigned. In those cases where the original sentencing judge is no longer on the bench the case shall be reassigned to the judge who would be assigned if the case were new. The order of reassignment shall require that the Re-sentencing occur within 45 days of the date of the order and copies thereof shall be furnished to the defendant and all counsel of record.

DONE AND ORDERED in quadruplicate at Vero Beach, Indian River County, Florida, this 30th day of June 2000.


PAUL B. KANAREK
Chief Judge