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LORAIN COUNTY

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COURT OF COMMON PLEAS
TOM ORLANDO

LORAIN COUNTY COURT OF COMMON PLEAS
GENERAL DIVISION
LORAIN COUNTY, OHIO
Tom Orlando, Clerk
RAYMOND J. EWERS, ADMINISTRATIVE JUDGE

IN RE:


GENERAL DIVISION LOCAL
RULES OF COURT

) CASE NO. MISC 2024
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JOURNAL ENTRY

Rule 7 of the Local Rules of Court for the Lorain County Common Pleas Court, General Division (last revised February 2, 2024), a copy of which is attached hereto and incorporated herein, is hereby amended and shall be effective until further order of Court.

It is so ordered.



Judge Raymond J. Ewers
Administrative Judge



RULE 7

THE ASSIGNMENT SYSTEM

A. IN GENERAL

Except as otherwise provided, all cases shall be assigned to a Judge by a random computer selection process. Civil cases shall be assigned at the time and in the order of filing or transfer from another Court. Criminal cases shall be assigned following preparation of the arraignment list by the Clerk of Courts. Secret indictments shall be assigned following service upon the Defendant. Any criminal case in which the Defendant is charged with non-support pursuant to R.C. 2919.21 will be assigned like any other criminal case, but after random assignment, shall be reassigned to the then assigned Judge in charge of felony support matters on the General Division's Non-Support Docket. Upon receiving a reassigned criminal non-support case, the assigned Judge may transfer a case of similar age and import to the Judge who had the non-support case assigned.

B. CIVIL REFILING AND CONSOLIDATION

1. Refiling – Civil Rule 41

When a previously dismissed case is refiled, the attorney or party shall indicate so on the case designation sheet. The Clerk of Courts shall assign the refiled case to the Judge assigned at the time of the original dismissal. Any case filed beyond the guidelines established by Civil Rule 41 is a new action not subject to this rule.

2. Consolidation

When actions involving a common question of law or fact have been filed as separate cases, a motion for consolidation shall be filed with the Court to whom the lowest case number has been assigned. If the motion is granted, the cases shall be consolidated and go forward under the lowest case number.

3. Civil Forfeiture

Civil forfeiture cases shall be assigned or transferred to the Judge presiding over any related criminal case. The party seeking forfeiture shall inform the Court and file a motion to transfer whenever the underlying civil matter relates to any pending criminal case.

C. CRIMINAL COMPANION AND CAPITAL CASES

1. Pending Case

When a Defendant has a pending case, any new case shall be assigned to the judge with the lowest case number, with the exception of criminal non-support cases under R.C. 2919.21. Any and all such criminal non-support cases will be assigned to the assigned felony non-support Judge. The assigned Judge may transfer a case of similar age and import to the Judge who had the Defendant with the pending case.

2. Multiple Defendants

When cases involving multiple Defendants are related, all cases shall be assigned to the Judge with the lowest case number. All co-defendants shall be assigned to the Judge with the lowest case number, regardless of whether the lower case number has been terminated.

3. Dismissal and Re-indictment

When an individual is indicted for offenses that were pending in a case that was previously dismissed, the new case shall be assigned to the Judge who was presiding over the original matter.

4. Capital Case

All capital cases shall be assigned randomly through a process where each Judge, after receiving an assignment, is excluded from the assignment pool until all Judges have received a capital case. With respect to capital cases, the assignment process specified herein shall supersede all other local criminal assignment rules. The other assignment provisions of Local Rule 7(B) shall apply when not in conflict with this rule.

5. Specialized Dockets

Specialized Dockets of the General Division shall be in accordance with the Rules of Superintendence for the Courts of Ohio and any procedures established by the Specialized Dockets Section of the Ohio Supreme Court.

6. Lorain County Recovery Court (Felony Drug Court)

(a) A specialized docket is created for the purpose of operating a felony drug court focused primarily on the opiate addicted defendant. The Lorain County Recovery Court (hereinafter referred to as "LCRC") shall be established in accordance with the requirements set forth in Ohio Supreme Court's Rules of

Superintendence and shall operate and implement the "specialized docket standards" set forth in those Rules and Appendixes. The objective of the court is to reduce substance abuse and recidivism for the opiate addicted felony defendant by utilizing addiction and mental health treatment professionals and community control alternatives. The court began operation as a pilot program in September of 2015.

(b) Placement

Placement is initiated by obtaining and completing a "referral form" that is available from all the general division judges. This form must be completed and delivered to the LCRC Coordinator. The Coordinator will begin the analysis for clinical eligibility and a copy of the referral form will be given to the prosecutor to examine the case for legal eligibility. The LCRC operates on two tracks: Intervention and Post-Conviction Track.

(c) Eligibility

(1) The Intervention Track:

This track follows the eligibility of RC 2951.041 with the exception that no drug trafficking offenders are eligible. Successful completion of this track will result in a dismissal of charges.

(2) Post-Conviction Track:

So long as the defendant lives in the jurisdiction of Lorain County and is sentenced to a community control sentence/probation or judicial release supervision on the current offense, the defendant is legally eligible. * The current offense must be eligible for a community control sentence.

**In all cases, a defendant will be clinically assessed to determine if the LCRC is an appropriate level of supervision (clinically eligible). In all cases where a defendant is found to be eligible for the LCRC, it is the sentencing judge who has sole discretion to add LCRC as a term of supervision.*

(d) Case Assignment

When a defendant's case is "referred to the LCRC", a journal entry so stating is executed by the assigned judge. The case remains with the assigned judge during the referral process. Once a defendant is determined to be clinically and legally eligible, attends orientation, signs the participation agreement and is approved for acceptance into the LCRC by

the treatment team and LCRC judge, the case is then transferred to the LCRC Judge's docket by the administrative judge. When a case is transferred to the Recovery Court Docket, the assigned Recovery Court Judge shall acquire full jurisdiction over that transferred case.

(e) Case Management

The LCRC, in conjunction with the Lorain County Adult Probation Department, have teamed with numerous county addiction treatment and mental health providers, residential sober living houses, recovery coaches, and the Lorain/Medina Community Based Correctional Facility to provide wrap around services to participants. The complete program is set forth in the LCRC Program Description. Participant requirements are set forth in the LCRC Participant Handbook and the LCRC Participant Agreement, all incorporated herein.

(f) Termination

There are two types of termination criteria: unsuccessful and neutral discharge.

(1) Unsuccessful Termination: Criteria have been developed by the LCRC Advisory Committee. The Recovery Court Judge has the ultimate discretion in determining termination from the program. Criteria for unsuccessful termination may include: on-going non-compliance with treatment or refusal of treatment; new criminal charges which would have otherwise rendered the participant ineligible for the program; committing a serious infraction or series of infractions which graduate to the level of a "last chance" and having an outstanding warrant for non-compliance from the program for thirty (30) days or more. Defendants terminated unsuccessfully from the LCRC will be sentenced in accordance with current felony sentencing statutes in Ohio. Defendants on the intervention track who are terminated unsuccessfully will be convicted of the felony charges they plead guilty to prior to sentencing.

(2) Neutral Discharge: In general, a neutral discharge may result from any number of reasons other than violation behavior. Defendants physical health may prevent further participation. The treatment team and LCRC judge may decide that continued participation is inappropriate. In cases of neutral discharge involving a defendant on the Intervention Track, the LCRC judge and the prosecutor will consult to determine if there are factors present which warrant conviction and sentence, or a transfer to another diversionary program.

(g) Appointment of Judges to preside over Recovery Court

The Administrative Judge will select a Common Pleas Court General Division judge(s) for LCRC docket(s). The judge(s) will serve for a period of three years from date of appointment. Upon approval of the Administrative Judge, the judge(s) may be reappointed to successive terms. Thereafter, any Common Pleas Court General Division judge(s) who desire to preside over a LCRC docket may submit their names to the Administrative Judge for consideration.

7. Lorain County Wellness Court (Felony Mental Health Court)

- (a) Establishment of Wellness Court—The Lorain County Common Pleas Wellness Mental Health Court (“Wellness Court”) is a specialized docket program offering targeted treatment for offenders who have been diagnosed with a severe or serious mental illness where such illness was a primary factor leading to their involvement in the criminal justice system. The Wellness Court operates as required by Sup.R. 36.20 through 36.29.

- (b) Placement

The Wellness Court serves Lorain County residents who are charged with felonies and have a serious mental illness which has led to criminal justice involvement and for whom community-based, court-monitored treatment would provide the ability to lead self-sufficient, law-abiding lives. Placement into Wellness Court is initiated by obtaining and completing a *referral form* that is available from all the general division judges. This form must be completed and delivered to the Wellness Court Coordinator. The Coordinator will begin the analysis for clinical eligibility and a copy of the referral form will be given to the prosecutor to examine the case for legal eligibility. Any one or more of the following will generally render the offender *ineligible* for the Wellness Court: sex offenses; arson; an offense involving a child victim; history of serious or repetitive violence; defendant is Not Guilty by Reason of Insanity (NGRI) or Incompetent to Stand Trial; history of sex offenses or child victim offenses; history of offenses which were not driven by mental illness; or defendant poses a significant risk of harm to Wellness Court staff.

- (c) Case Assignment

When a defendant's case is referred to Wellness Court, a journal entry is executed by the assigned judge. The case remains with the assigned judge during the referral process. Once a defendant is determined to be clinically and legally eligible, attends orientation, is approved for acceptance into the Wellness Court by the treatment team and judge, and signs the participation agreement, the case is then transferred to the Wellness Court judge's docket by the administrative judge.

(d) Case Management

The Lorain County Common Pleas Court and the Lorain County Adult Probation Department have teamed with numerous county mental health and addiction service providers, community support service providers, NAMI Lorain County, and local law enforcement to provide comprehensive services to Wellness Court defendants. Complete program eligibility, requirements, and expectations are delineated in the Wellness Court Program Description. Specific participant requirements are explained in the Wellness Court Participant Handbook and the Wellness Court Participation Agreement.

(e) Termination

There are two types of termination criteria from the Wellness Court: unsuccessful termination and neutral discharge. The Wellness Court Judge has final discretion to decide whether a participant should be terminated from the Wellness Court.

(1) Unsuccessful Termination: The following actions may lead to unsuccessful termination from the Wellness Court: ongoing non-compliance with treatment or resistance to treatment; new serious criminal convictions; a serious infraction of the Wellness Court rules or a series of infractions; or a serious probation violation or a series of probation violations. If a participant is unsuccessfully terminated, the participant may have his or her community control sanctions modified. This may include extension of community control, commitment to a community based correctional facility or residential treatment facility, or revocation of community control with jail or prison sanctions. If a revocation hearing occurs, the Wellness Court Judge will adjudicate the proceedings.

(2) Neutral Discharge: The following actions or events may lead to neutral discharge from the Wellness Court: a serious medical condition resulting in the participant's inability to participate in the Wellness Court and adhere to the requirements of the Wellness Court; a serious mental health condition resulting in the participant's inability to comply with the requirements of the Wellness Court; death of the participant; or any other factor(s) that may keep the participant from meeting the requirements for successful completion. Neutral discharge from the Wellness Court may result in the following: Defendant's case will proceed in front of the Wellness Court Judge; and should the defendant wish to be admitted to the Wellness Court in the future, the Treatment Team and Wellness Court Judge shall review the case closely, and the final decision whether to readmit the defendant is with the Judge.

(f) Appointment of Judges to preside over Wellness Court

The Administrative Judge will select a Common Pleas Court General Division judge(s) to preside over Wellness Court. The judge(s) will serve for a period of three years from date of appointment. Upon approval of the Administrative Judge, the judge(s) may be reappointed to successive terms. Thereafter, any Common Pleas Court General Division judge(s) who desires to preside over Wellness Court may submit his/her name to the Administrative Judge for consideration.

D. REASSIGNMENT

Any cases requiring reassignment shall be referred to the Administrative Judge, along with the reason for reassignment. When merited, the Administrative Judge will reassign the case. The Judge receiving the case may transfer a case of similar age and import to the Judge requesting reassignment.

E. APPLICATION FOR SEARCH WARRANTS

In any application to obtain a search warrant, pursuant to Ohio Crim. R. 41, the applicant must swear or affirm in his/her supporting affidavit that an application seeking to conduct the same search has not been previously presented to, and been denied by, a Judge authorized by law to issue a warrant to search.

If an application for a warrant to search has been previously presented to a Judge authorized by law to issue the warrant and has been denied, then, unless the previous Judge is unavailable, an amended application, with any additional factual allegations supporting probable cause to issue the warrant shall be presented to the same Judge.

F. TRANSFER OF SUPERVISION FOR NEW FELONY CHARGE

1. When a defendant, who is under supervision on a community control sentence, is charged with a new felony which would constitute a violation of that community control sentence, the judge presiding over the community control supervision case may, with the consent of the judge assigned the new case, transfer the community control supervision case to the judge who was assigned the new case to consolidate the cases and to minimize the impact upon court resources.
2. When a defendant, who is under supervision on a community control sentence or sentences, is ordered to serve a further community control sentence in a subsequent case or cases, the judge who ordered the original community control sentence or sentences must transfer that case or cases to the judge who ordered the

last community control sentence or sentences, to consolidate the cases and to minimize the impact upon court resources.

3. Any transfers made under these provisions do not require the assignment of a case, pursuant to Rule 7(D) above.

G. CONSOLIDATION OF CIVIL STALKING PROTECTION ORDER CASES

When CSPO actions involving a common question of law, facts or parties have been filed as separate cases or cross-petitions, the second case filed may be transferred, before or after an *ex-parte* hearing, to the Court to whom the lowest case number has been assigned.