



Superior Court of Guam

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HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

DANIELLE T. ROSETE, ESQ.
CLERK OF COURT

MEMORANDUM

To: Guam Bar Association Members

From: Danielle T. Rosete *D Rosete*
Clerk of Court

cc: Presiding Judge Alberto C. Lamorena III

Date: December 31, 2020

Subject: Administrative Rule re Superior Court Case Assignments

Hafa Adai!

The Supreme Court of Guam issued Administrative Rule ADM20-001 amending the case assignment procedures for cases filed before the Superior Court of Guam. Unlike the prior Administrative Rules on case assignments, the new rule has non-criminal and criminal court designations. Courts 1, 2, and 3 are designated as non-criminal courts and courts 4, 5, 6, and 7 are designated as criminal courts. All non-criminal cases will be assigned to Courts 1, 2, and 3 and all criminal cases will be assigned to Courts 4, 5, 6, and 7. Each of the criminal courts and one of the non-criminal courts will also have a therapeutic court assignment. Two criminal courts will preside over Family Violence cases. The Administrative Rule also provides procedures for assigning cases to the Magistrates, Family Court Referee, and Administrative Hearings Officer.

For more information on case assignments please refer to ADM20-001 attached to this memorandum and also available on the court website at www.guamcourts.org.

Beginning January 1, 2021, the court designations for the Superior Court judges are as follows:

Non-Criminal Courts

Court 1 Judge Elyze M. Iriarte	Court 2 Judge Arthur R. Barcinas Juvenile Drug Court Mental Health Cases	Court 3 Judge Dana A. Gutierrez
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Criminal Courts

Court 4 Judge Anita A. Sukola Adult Drug Court I and III	Court 5 Judge Maria T. Cenzone Adult Drug Court II Family Violence
Court 6 Judge Vernon P. Perez Driving While Impaired Treatment Court Guam Adult Reentry Court Program	Court 7 Presiding Judge Alberto C. Lamorena III Veterans Treatment Court Family Violence

Should you have any questions, please contact me. I wish you all a happy, safe, and healthier New Year!



Filed

Supreme Court of Guam, Clerk of Court

SUPREME COURT OF GUAM

ADMINISTRATIVE RULE NO. 20-001

REGARDING AMENDED TRIAL COURT CASE ASSIGNMENT PROCEDURES

Pursuant to this court’s authority to “make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam,”¹ and upon consultation with the trial court judges relative to the manner in which cases are assigned to better maximize efficiency in managing the trial court’s business, the Trial Court Case Assignment Procedures as set forth in its entirety in Exhibit A and incorporated herein by this reference are hereby **ADOPTED** and shall replace the case assignment procedures in Administrative Rule No. 18-001.

The amended Trial Court Case Assignment Procedures shall take effect on January 1, 2021.

SO ORDERED this 15th day of October, 2020.

/s/
ROBERT J. TORRES
Associate Justice

/s/
KATHERINE A. MARAMAN
Associate Justice

/s/
F. PHILIP CARBULLIDO
Chief Justice

¹ 48 U.S.C.A. 1424-1(a)(6) (Westlaw through Pub. L. 116-163 (2020)); *see also* 7 GCA § 4101(e) (as amended by Guam Pub. L. 28-137:1 (July 11, 2006)) (“The Supreme Court shall enact rules governing the efficient dispatch of the Superior Court’s business, including . . . (3) assignment, management, distribution, processing, scheduling and disposition of cases in the Superior Court . . .”).



EXHIBIT “A”

TRIAL COURT CASE ASSIGNMENT PROCEDURES

[Administrative Rule 20-001; Effective January 1, 2021]

I. Introduction

The Administrative Rule and Case Assignment Procedures contemplate a full contingent of seven Superior Court judges occupying the bench. If fewer than seven Superior Court judges occupy the bench for an extended period, the Superior Court Clerk of Court shall confer with the Presiding Judge and the Administrator of the Courts about interim measures until a full contingent occupies the bench. Any proposed interim measure is subject to the approval of the Chief Justice. These procedures also contemplate the assignment of cases to two magistrates, a Family Court Referee, and an Administrative Hearings Officer.

All cases addressed herein shall be assigned in accordance with the Administrative Rule and case assignment procedures.

II. Court Designations

There shall be seven court designations for the assignment of cases to the Superior Court judges. The designations will include four criminal courts and three non-criminal courts. Courts 1, 2, and 3 are designated as non-criminal courts, and Courts 4, 5, 6, and 7 are designated as criminal courts. Courts 2, 4, 5, 6, and 7 shall have a therapeutic court or treatment program component.¹

One judge shall occupy each designation for four years. Selection of the courts shall be based on seniority and shall occur at a meeting with the full contingent of seven judges held no later than 18 months² before the expiration of the rotation to allow the next judge to adequately

¹ The therapeutic courts include: Juvenile Drug Court, Adult Drug Court, Veterans Treatment Court, and the Driving While Impaired Treatment Court. The Guam Adult Reentry Court is a treatment program. *See* 7 GCA § 2101.

² Because these are new assignment procedures, the first selection will be held in October 2020.

prepare for the newly assigned docket. The assignments shall be fair and equitable and should provide each of the seven judges with the opportunity to occupy each court established in these procedures. A judge may not select the same court when rotating; however, once the selections based on seniority are made, the judges shall have the discretion to exchange their assigned courts with one another on or before a date set by the Chief Justice. A judge shall not occupy the same court longer than eight years. If a judge vacates the bench, the judges may request with the Presiding Judge to be reassigned to the vacant court with priority given to the most senior judge making such request.

All active cases,³ except for the cases where a defendant or a minor is in a therapeutic court, treatment program, or the Family Violence Deferred program, shall remain with the judge responsible for the case unless that judge is subsequently disqualified from the matter. If the judge is subsequently disqualified, the matter will be randomly assigned in accordance with these rules.

III. Assignment of Cases

Except as provided in sections III(D), (E), and (F) below, all cases shall be assigned to the seven courts as follows.

A. Non-Criminal Cases

1. Juvenile Delinquency (JD) Cases

All Juvenile Delinquency cases shall be assigned equally to Courts 1, 2, and 3. If a juvenile is eligible for Juvenile Drug Court (“JDC”), the case shall be assigned to Court 2. The assignment of a Juvenile Delinquency case to the Juvenile Drug Court shall count towards Court 2’s one-third (1/3) share of Juvenile Delinquency cases.

³ An active case includes a case that has not been closed by the court.

2. Juvenile Proceeding (JP) Cases

All Juvenile Proceeding cases shall be assigned to the Family Court Referee, including truancy, beyond control, legal guardianship, status offenses, and Person in Need of Services (“PINS”).

Consistent with the One-Judge-One-Family concept, if a juvenile has an active prior or active related case, any new case involving that juvenile shall be assigned to the same judge or referee, except that the case may be reassigned upon agreement by the judges and Family Court Referee.

3. Domestic (DM) Cases

All domestic cases shall be assigned equally to Courts 1, 2, and 3, except for domestic cases involving a custody dispute brought by unmarried persons. Domestic cases involving a custody dispute brought by unmarried persons shall be assigned equally to Courts 1, 2, and 3, and the Family Court Referee.

4. Mental Health Cases

Unless disqualified from the matter, the judge assigned to Court 2 shall preside over subsequent proceedings in a criminal case where a defendant is deemed unable to be proceeded against due to their mental state under 9 GCA § 7.22 or § 7.37 as determined by the assigned judge under section III(B)(3).

5. Ex Parte Applications

a. Temporary Orders of Protection, Orders to Show Cause, and Protective Orders

All civil *ex parte* Applications for Temporary Orders of Protection (“TPO”) and Orders to Show Cause, and all Protective Order cases (“PO”) as defined under the Local Rules of Court, Miscellaneous Rule 2.1, shall be assigned equally to Courts 1, 2, and 3.

b. Domestic Cases

Consistent with the concept of One-Judge-One-Family, any domestic case (DM) involving a party or parties who are also involved in a PO case or cases shall be assigned or reassigned to the judge assigned to the PO case. The assignment or reassignment of a DM or PO case shall count toward that court's share of DM and PO cases.

6. Other Non-Criminal Cases

All other non-criminal cases not assigned above shall be assigned equally to Courts 1, 2, and 3.

B. Criminal Cases

Criminal cases shall be assigned to Courts 4, 5, 6, and 7, as outlined below. Each criminal court shall have a component of a therapeutic court or treatment program.

1. Felony Cases

a. Cases that include any of the following felony charges shall be equally assigned, one-fourth (1/4) each, to Courts 4, 5, 6, and 7:

- (i) Aggravated Murder – 9 GCA § 16.30
- (ii) Murder – 9 GCA § 16.40
- (iii) Attempted Murder, Solicitation, and Conspiracy to commit murder – 9 GCA §§ 13.60 and 16.40
- (iv) Manslaughter – 9 GCA § 16.50
- (v) Kidnapping – 9 GCA § 22.20
- (vi) First Degree Robbery – 9 GCA § 40.10
- (vii) First Degree Criminal Sexual Conduct – 9 GCA § 25.15
- (viii) Second Degree Criminal Sexual Conduct – 9 GCA § 25.20

- (ix) Prostitution – 9 GCA § 28.10
- (x) Compelling Prostitution – 9 GCA § 28.30
- (xi) Use of Child in Obscene Acts – 9 GCA § 28.52
- (xii) Photographs of Minor’s Sexual Acts – 9 GCA § 28.80
- (xiii) Electronic Enticement of Child in Sexual Acts – 9 GCA § 25A105
- (xiv) Child Pornography – 9 GCA § 25A203
- (xv) Home Invasion – 9 GCA § 37.210

b. All felony and misdemeanor cases involving any level of a family violence charge shall be assigned equally to Courts 5 and 7. Any felony or misdemeanor assigned to Courts 5 and 7 shall count toward that court’s one-fourth (1/4) share of the felonies and misdemeanors.

c. All felonies not assigned under subsections (a) and (b) shall be assigned one-fourth (1/4) each to Courts 4, 5, 6, and 7.

2. Misdemeanor Cases

All misdemeanor cases not assigned under section III(B)(1)(b) shall be assigned one-fourth (1/4) each to Courts 4, 5, 6, and 7.

3. Defendant Competency

All subsequent proceedings in a criminal case where a defendant is deemed unable to be proceeded against due to their mental state under 9 GCA § 7.22 or § 7.37 as determined by the assigned judge shall be heard by the judge assigned to Court 2 unless that judge is disqualified from the matter.

4. Veterans Treatment Court

All felony and misdemeanor cases in which a defendant is eligible for the Veterans

Treatment Court (“VTC”) shall be reassigned to Court 7 when: (1) the defendant is legally and clinically eligible, as set forth in the VTC Participant Handbook; (2) the defendant executes a participation agreement; and (3) the case is accepted by the VTC judge. Any felony or misdemeanor assigned to the VTC shall count toward that court’s one-fourth (1/4) share of the felonies and misdemeanors.

5. Adult Drug Court

All felony cases in which a defendant is eligible for the Adult Drug Court I and III (“ADC” I and III) treatment track shall be reassigned to Court 4 when: (1) the defendant is legally and clinically eligible, as set forth in the ADC Participant Handbook; (2) the defendant executes a participation agreement; and (3) the case is accepted by the ADC judge. Any felony assigned to the ADC I and III shall count toward that court’s one-fourth (1/4) share of the felonies.

All felony cases in which a defendant is eligible for the Adult Drug Court II (“ADC” II) treatment track shall be reassigned to Court 5 when: (1) the defendant is legally and clinically eligible, as set forth in the ADC Participant Handbook; (2) the defendant executes a participation agreement; and (3) the case is accepted by the ADC II judge. Any felony assigned to the ADC II shall count toward that court’s one-fourth (1/4) share of the felonies.

6. Driving While Impaired Treatment Court

All felony and misdemeanor cases in which a defendant is eligible for the Driving While Impaired Treatment Court (“DWITC”) shall be reassigned to Court 6 when: (1) the defendant is legally and clinically eligible, as set forth in the DWITC Participant Handbook; (2) the defendant executes a participation agreement; and (3) the case is accepted by the DWITC judge. Any felony or misdemeanor assigned to the DWITC shall count toward that court’s one-fourth (1/4) share of the felonies and misdemeanors.

7. Guam Adult Reentry Court Program

All participants eligible for the Guam Adult Reentry Court Program shall be assigned to Court 6.

C. Complex Litigation

Where a party moves to consolidate complex cases which have been assigned to different judges, the Presiding Judge will address the motion and shall thereafter make the assignment of cases upon ruling on the motion. If the Presiding Judge is disqualified from any of the cases to be consolidated, the next senior judge will address and rule on the motion and shall thereafter make the assignment of the cases to be consolidated. To have a fair and equitable case distribution, the Presiding Judge may adjust total case assignments when complex litigation requires the assigned judge to devote a greater proportion of his or her time to the complex case or cases.

D. Assignment of Cases to Magistrates

The Magistrates will preside over all first appearances and arraignment proceedings in criminal cases and juvenile preliminary hearings when the Family Court Referee is not available to hear them. All civil collection cases, special proceedings cases involving a change of name petition, uncontested divorces where there is a notarized consent on file, unlawful detainer, and restitution cases shall be assigned to the Magistrates. All traffic and small claims cases shall be assigned to the Magistrates. The Magistrates may serve as settlement judges, and may also be assigned cases and preside over matters as provided under 7 GCA § 4401(c).

E. Assignment of Cases to Family Court Referee

The Family Court Referee shall be assigned cases under sections III(A)(2) and (3) above. The Family Court Referee will also hear all juvenile preliminary hearing matters, all child support issues in domestic cases where the Office of the Attorney General has not entered an appearance,

and may serve as a settlement judge. Additionally, the Family Court Referee shall hear traffic and small claims cases when the Magistrates, judge *pro tempore* or referee is not available to hear them.

F. Assignment of Cases to Administrative Hearings Officer

The Administrative Hearings Officer will hear all child support cases filed by the Office of the Attorney General and child support issues in domestic cases where the Office of the Attorney General entered its appearance.

IV. Miscellaneous Matters

A. Disqualification of a Judicial Officer

1. Judges; Family Court Referee

Upon the disqualification of a judge or Family Court Referee in a non-criminal case, the case shall be randomly reassigned to the remaining judges presiding over non-criminal courts. If all non-criminal courts are disqualified, the case shall be randomly reassigned to the judges presiding over the criminal courts. Upon the disqualification of a judge from a criminal case, the case shall be randomly reassigned to the remaining judges presiding over criminal courts. If all criminal courts are disqualified, the case shall be randomly reassigned to the judges presiding over the non-criminal courts.

Upon the disqualification of the Family Court Referee from presiding over child support issues in domestic cases where the Office of the Attorney General has not entered an appearance, the child support issues shall be heard by the assigned judge.

2. Magistrates

Upon the disqualification of a magistrate in cases assigned to the magistrate pursuant to section III(D), the case shall be reassigned to the second magistrate. If both magistrates are disqualified, the case shall be randomly reassigned to the judges presiding over the applicable non-

criminal courts or to the Family Court Referee, as provided in section III(E).

Upon the disqualification of a magistrate presiding over a first appearance or an arraignment in criminal cases, the matter shall be reassigned to the second magistrate. Should both magistrates be disqualified from presiding over these proceedings, the matter shall be heard by the assigned judge.

3. Administrative Hearings Officer

Upon the disqualification of the Administrative Hearings Officer in cases assigned pursuant to section III(F), the case shall be reassigned to the Family Court Referee. If the Family Court Referee is disqualified, the case shall be randomly reassigned to the magistrates.

4. Denial of Disqualification

When a judge shall deny his or her disqualification under 7 GCA § 6107, the question of the judge's disqualification shall be randomly assigned to one of the remaining Superior Court judges.

B. Case Assignment Review

The Clerk of Court shall review the actual case assignment numbers on or about July 1 of each year, and with the approval of the Presiding Judge, shall make appropriate adjustments to the assignment of cases during the final quarter of each calendar year to ensure equal and balanced case assignments to the extent reasonably possible. However, therapeutic court or treatment program case assignments must always be made under this rule.

C. *Ex Parte* Schedule

All judges will rotate every two weeks as the *ex parte* judge with a schedule to be established by the Presiding Judge.

V. Random Case Assignment

The Administrator of the Courts shall take reasonable steps as may be necessary to cause to be computerized the random assignment of cases as described herein.