

x

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

ADMINISTRATIVE ORDER 97- 19

Whereas, Rule 2.050(b), Fla. R. Jud. Admin. requires the Chief Judge to develop an administrative plan for the efficient and proper administration of courts within the circuit, and,

Whereas, Section 27.52(1)(d), Florida Statutes, (1997), requires that when the Indigence Examiner finds discrepancies between the financial affidavit submitted by a defendant and the examiners investigation of assets that the court determine whether the public defender or conflict attorney should continue representation, and ,

Whereas, when it appears that in cases where there is a dispute as to whether a defendant is indigent the real party in interest is the county because the county is paying for costs of the Public Defender and attorney fees for conflict counsel.

Pursuant to Rule 2.050, Fla. R. Jud. Admin., it is therefore ;

ORDERED

1. In all cases in which the Indigence Examiner finds discrepancies between the financial affidavit and the examiners investigation of the defendant's assets, or where the defendant does not meet the definition of indigence set forth in Section 27.52(2)(b)(1) or where there is a presumption that the defendant is not indigent pursuant to Section 27.52 (2)(c), the Indigence Examiner shall file a motion requesting a hearing concerning these matters with copies of the motions sent to Counsel for the Defendant, the State, County, and to the Judge to whom the case is assigned.

2. Upon receipt of the motion the court shall set a hearing on the matter at the earliest possible date to give the parties the opportunity to be heard.

3. The court shall appoint the County Attorney to litigate this matter.

4. The Indigence Examiner and Court shall use forms which are in substantial compliance to the forms attached hereto and made a part hereof.

DONE AND ORDERED in quadruplicate at Ft. Pierce, St. Lucie County, Florida this 11th day of December, 1997.



PAUL B. KANAREK
Chief Judge

IN THE _____ COURT OF THE
NINETEENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY,
STATE OF FLORIDA

STATE OF FLORIDA,

CASE NO:

Plaintiff,

vs.

Defendant.

_____ /

MOTION TO DETERMINE INDIGENCE

Comes now Shawn Landry, Indigence Examiner for the Nineteenth Judicial Circuit, and hereby requests that this Court set a hearing to determine whether the defendant in the above-styled case is indigent, pursuant to the terms of Section 27.52, Florida Statutes (1997). As grounds for this motion, Movant states:

1. I have reviewed the financial affidavit executed by the defendant in this matter and various public records and have made the following findings (*check all that are applicable*):

_____ a. The financial affidavit shows that the defendant's income is greater than 250% of the then-current federal poverty guidelines prescribed for the size of the household of the accused by the United States Department of Health and Human Services.

_____ b. There is a material discrepancy between the defendant's financial affidavit and my investigation of assets as follows: _____

____ c. The following material facts exist which pursuant to Section 27.52(2)(c), Florida Statutes (1997) create a presumption that the defendant is not indigent (*check all that are applicable*):

____ 1. The defendant has been released on bail in the amount of \$5,000 or more.

____ 2. The defendant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property as follows: _____

____ 3. The defendant retained private counsel immediately before or after filing the affidavit asserting indigence.

I HEREBY CERTIFY that a copy hereof has been provided by hand delivery to the Courthouse boxes of counsel for the State, Defense, County Attorney, and Judge assigned this case the ____ day of _____, 199__.

Shawn Landry
Indigence Examiner Nineteenth Circuit

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY
STATE OF FLORIDA

CASE NO. _____

STATE OF FLORIDA,
Plaintiff,

vs.

_____,
Defendant.

_____ /

ORDER SETTING HEARING ON INDIGENCE STATUS

THIS CAUSE came before the court in chambers on the motion of the Indigency Examiner to re-evaluate the defendant's Indigence status. Based thereon, it is hereby;

ORDERED as follows;

1. An evidentiary hearing on this matter is hereby scheduled before the undersigned in Courtroom __ of the _____ County Courthouse on the ____ day of _____, 199__ at __:__ AM/PM, to fully litigate this matter.

2. The Office of the County Attorney, representing the real party with the financial interest in this matter, is hereby appointed to conduct the evidentiary hearing on the issue.

3. Counsel for the defendant, the State, and the defendant personally, shall be present at this hearing. If an interpreter is needed for the defendant, defense counsel must arrange for the presence of a qualified interpreter. **SHOULD THE DEFENDANT FAIL TO APPEAR HE/SHE MAY BE SUBJECT TO BEING HELD IN CONTEMPT AND HIS/HER BOND MAY BE REVOKED**

4. The Clerk of Court shall forward a copy this order to the defendant, counsel for the defendant, counsel for the State, the County Attorney's Office and the defendant's bondsman if applicable at least seven (7) days prior to the hearing.

5. Should the County Attorney determine that it does not wish to contest the Order of Indigency they may file a pleading with the court, with copies to all parties, indicating that they do not contest the Order of Indigency which has been entered in this matter.

DONE AND ORDERED in chambers, _____, _____
County, Florida, this ____ day of _____, 19__.

CIRCUIT/COUNTY JUDGE

cc: Defendant
Office of the County Attorney
Office of the State Attorney
Office of the Public Defender