

IN THE CIRCUIT COURT OF
THE 16TH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA, IN
AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER: 2.055

IN RE:

INSTRUCTIONS FOR THE USE OF
FORM DEVELOPED BY THE FLORIDA
SUPREME COURT TO DETERMINE INDIGENT
STATUS FOR THE PURPOSE OF APPOINTING
THE PUBLIC DEFENDER OR PRIVATE ATTORNEY

_____ :

WHEREAS, the Florida Legislature amended Section 27.52, Florida Statutes, Determination of Indigent Status, to provide that the circuit court clerks, or third parties contracted by the clerk, shall determine if a person applying for appointment of a Public Defender or private attorney or any other due process service is indigent; and

WHEREAS, the Florida Supreme Court was tasked with developing a form for the use of the circuit court clerks, or third parties contracted by the clerk, to determine indigency and the Supreme Court approved and authorized said form in Opinion No. SC04-994 effective July 1, 2004; and

WHEREAS, Florida Supreme Court Opinion No. SC04-994 recognizes that local procedures may vary from circuit to circuit and authorizes the Chief Judge of each circuit to prepare instructions for the use of the approved form and to file such instructions with the circuit court clerk and clerk of the Supreme Court,

NOW THEREFORE, IT IS ORDERED as follows:

1. Pursuant to Chapter 27.52 Florida Statutes, the Clerk of Court for the Sixteenth Judicial Circuit shall have primary responsibility for determining indigency of a person applying for appointment of a Public Defender, court-appointed attorney or any other due process service. The Clerk shall insure that sufficient staff is in place in all areas of Monroe County to carry out the requirements of the statute and of Florida Supreme Court Opinion No. SC04-994.
2. An employee(s) under the supervision of the Office of the Public Defender will be deputized as a Deputy Clerk of Court and shall to the fullest extent possible, assist the Clerk in completing the aforementioned duties. The employee(s) will assist individuals in completing the Supreme Court-approved Affidavit of Indigent Status

and will make the determination of indigent status based on the applicant's financial and personal information as detailed in Section 27.52 (2) (b) (1, 2 and 3), Florida Statutes.

3. The Office of Pretrial Services and the Office of the Public Defender will assist the Clerk of Court in gathering information from incarcerated defendants requesting the appointment of counsel by distributing and collecting the approved affidavit. These completed affidavits will be forwarded to a Deputy Clerk who shall make the determination of indigent status.
4. The Court, having jurisdiction, shall receive the determination of indigent status from the Clerk of Court and appoint the Public Defender or a private attorney to represent the individual if he or she have been determined eligible. The applicant may seek review of the clerk's determination denying indigent status at the next scheduled hearing in the court having jurisdiction. The court shall make a final determination of indigence on the applicant's appeal.
5. At any hearing where the clerk is not present or the affidavit determining indigence has not been completed or is not available, the Court shall make a preliminary determination of indigent status pending further review by the clerk and may appoint counsel or authorize any other due process service on an interim basis. The court shall direct the applicant to the Clerk's office or the office of the Public Defender's deputized employee(s) for the full indigent status determination review.
6. Only the Clerk or his Deputy Clerks may assist an applicant with completing the affidavit of indigence.

DONE AND ORDERED at Key West, Monroe County, Florida, this 19 day of July 2004.

Richard G. Payne
Chief Judge