

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

IN RE: CONFIRMATION OF COMMISSIONER ORDERS AND JUDGMENTS

ADMINISTRATIVE ORDER NO. 2010-087

ADMINISTRATIVE ORDER
CONFIRMATION OF COMMISSIONER ORDERS & JUDGMENTS

WHEREAS, the 16th Judicial Circuit Court has commissioners working in Family Court hearing juvenile cases, in Family Court hearing domestic relations cases, in Drug Court; and in Probate Court; and

WHEREAS, R.S.Mo. § 211.029, and other authorities, authorizing commissioners to handle juvenile matters and authorizing appeals from the orders and judgments made by the commissioners provide that all orders and judgments must be confirmed by an Article V judge; and

WHEREAS, R.S.Mo. § 487.030, and other authorities, authorizing commissioners to handle domestic relations cases in Family Court and authorizing appeals from the orders and judgments made by the commissioners provide that all orders and judgments must be confirmed by an Article V judge; and

WHEREAS, R.S.Mo. § 478.003, and other authorities, authorizing commissioners to handle drug cases and authorizing appeals from the orders and judgments made by the commissioners provide that all orders and judgments must be confirmed by an Article V judge; and

WHEREAS, R.S.Mo. § 472.160, and other authorities, authorizing commissioners to handle probate cases and authorizing appeals from the orders and judgments made by the commissioners provide that all orders and judgments must be confirmed by an Article V judge; and

WHEREAS, none of the enabling statutes that permit commissioners to hear cases and require confirmation of the orders, recommendations and judgments made by a commissioner set out a precise process for confirmation of the orders, recommendations and judgments made by a commissioner; and

WHEREAS, in *Slay v Slay*, 965 S.W.2d 845 (Mo. banc 1998), the Missouri Supreme Court has held that, in order to be a final, appealable judgment, a document must be signed by an Article V judge, to wit:

Article V, section 1 of the state constitution vests the judicial power of this state in this Court, the court of appeals, and the circuit courts. These courts are composed of judges. Mo. Const. art. V, sections 2, 13, 15, and 16. Although the documents filed in these cases are denominated "judgment," they are not signed by a judge. Because the documents are not signed by a person selected for office in accordance with and authorized to exercise judicial power by article V of the state constitution, no final appealable judgment has been entered, and this Court is without jurisdiction.

WHEREAS, in cases where commissioners, as opposed to judges, enter orders and render judgments, two separate entries are required to be entered into the Judicial Information System. The first JIS entry is to be made documenting the order or recommended judgment made by the commissioner (FCFRC). The second entry is to be made documenting the confirmation of the Article V judge (OACFR); and

WHEREAS, Case.net will not reflect to correct status of the orders and judgments of the Court unless the docket entries set out above are timely made; and

WHEREAS, signatures of Article V judges can be added to the commissioner's orders and recommended judgments by an original written signature, or, as provided in R.S.Mo. § 432.230, by electronic signature, to wit:

the Deputy Probate Commissioner have been requested and will be available in the near future, and upon becoming available, those codes shall be used when entering judgments and orders confirming orders and judgments made by the Probate Commissioner and the Deputy Probate Commissioner.

IT IS FURTHER ORDERED that all orders, judgments and decrees entered by the Probate Commissioner and the Deputy Probate Commissioner shall be confirmed by an Article V judge. The process to be used for confirming orders, judgments and decrees entered by the Probate Commissioner and the Deputy Probate Commissioner is entry of a confirmation order on a periodic basis. The confirmation order relating to the orders, judgments and decrees entered by the Probate Commissioner shall be maintained in a JIS case file identified as 16PRK182452, which file shall be viewable on Case.net. The confirmation order relating to the orders, judgments and decrees entered by the Deputy Probate Commissioner shall be maintained in a JIS case file identified as 16PRK189663, which file shall be viewable on Case.net.

IT IS FURTHER ORDERED that documentation notice of the confirmation of orders, judgments and decrees made by the Probate Commissioner and the Deputy Probate Commissioner shall be readily available to the parties, the Bar and the public. To facilitate this notice a sticker shall be placed on the outside of each probate file volume that reads as follows:

NOTICE TO PARTIES

The foregoing order, judgment or decree entered by the commissioner or deputy commissioner is subject to confirmation by the judge of the probate division. The judgment confirming orders, judgments or decrees of Commissioner Wheeler may be found in court file number 16PRK182452 and the judgment confirming the orders, judgments or decrees of Deputy Commissioner Burnett may be found in court file number 16PRK189663. Any party to this proceeding may file a motion for rehearing before the judge of the probate division within fifteen (15) days of the date of entry of the order, judgment or decree by the commissioner or deputy commissioner.

IT IS FURTHER ORDERED that in docket codes entered into JIS documenting the orders, judgments and decrees made by the Probate Commissioner and the Deputy Probate Commissioner language shall be placed in the docket text that reads:

The judgment confirming the foregoing order, judgment or decree, if entered, may be found in file number 16PRK182452 for Commissioner Wheeler or file number 16PRK189663 for Deputy Commissioner Burnett.

IT IS FURTHER ORDERED that the entry of every order entered by a judge confirming the orders, judgments and decrees made by the Probate Commissioner and the Deputy Probate Commissioner shall be entered into JIS, with the text of the order being displayed in the docket text so that it can be read in Case.net.

IT IS FURTHER ORDERED that the orders, recommendations and judgments entered by commissioners can be signed by the Article V judge confirming the order, recommendation, judgment and/or decree by original written signature or by electronic signature as permitted by R.S.Mo. § 432.230. A copy of the order, recommendations and/or judgment, with the Article V judge's written signature or electronic signature affixed thereto, shall be saved in the JIS Document Management System as an electronic document.

IT IS FURTHER ORDERED that, in all cases where a party has a right to file a motion for rehearing, notice of the right to request a rehearing and the time limit for doing so shall be served on the attorney's of record and any pro se party, as required by law.

IT IS FURTHER ORDERED that the Family Court Administrative Judge, or, in the absence or unavailability of the Family Court Administrative Judge, any other Article V judge, may sign off on orders, recommendations and judgments made by commissioners assigned to Family Court-Juvenile.

IT IS FURTHER ORDERED that the judge assigned as the probate judge, or, in the absence or unavailability of the probate judge,, any other Article V judge, may sign off on orders, recommendations and judgments made by commissioners assigned to hear probate cases.

IT IS FURTHER ORDERED that any judge assigned to hear Family Court-Domestic Relations cases, or, in the absence or unavailability of a judge assigned to hear Family Court-Domestic Relations cases, any other Article V judge, may sign off on orders, recommendations and judgments made by commissioners assigned to hear Family Court-Domestic Relations cases.

IT IS FURTHER ORDERED that any judge assigned to hear criminal cases, or, in the absence or unavailability of the judge assigned to hear criminal cases, any other Article V judge, may sign off on orders, recommendations and judgments made by the Drug Court Commissioner.

IT IS FURTHER ORDERED that motions for rehearing filed with regard to orders, recommendations and/or judgments made by a commissioner working in Family Court-Juvenile Division shall be reviewed and ruled on by the Family Court Administrative Judge, or in the absence of the Family Court Administrative Judge, by the Article V judge covering for the Family Court Administrative Judge.

IT IS FURTHER ORDERED that motions for rehearing filed with regard to orders, recommendations and/or judgments made by a commissioner working in Family Court-Domestic Relations Division shall be reviewed and ruled on by the Article V judge assigned to hear domestic relations cases who signed the order, recommendation and/or judgment, or, in the absence of the judge who signed the order, recommendation and/or judgment, by another Article V judge assigned to hear domestic relations cases.

IT IS FURTHER ORDERED that motions for rehearing filed with regard to orders, recommendations and/or judgments made by the Probate Commissioner or the Deputy Probate Commissioner shall be reviewed and ruled on by the Probate Judge, or in the absence of the Probate Judge, by an Article V judge covering for the Probate Judge.

IT IS FURTHER ORDERED that motions for rehearing filed with regard to orders, recommendations and/or judgments made by the Drug Court Commissioner shall be reviewed

and ruled on by the Article V judge who signed the order, recommendation and/or judgment, or, in the absence of the judge who signed the order, recommendation and/or judgment, by another Article V judge assigned to hear criminal cases.

IT IS FURTHER ORDERED that any local rule inconsistent with this Administrative Order is rendered null and void.

June 30, 2010

A handwritten signature in black ink that reads "W. Stephen Nixon". The signature is written in a cursive style with a large, prominent "W" at the beginning.

W. STEPHEN NIXON
Presiding Judge