

RESOLUTION No. 84

A RESOLUTION OF THE TOWN OF SEWALL'S POINT PERTAINING TO THE MATTER OF JURY TRIALS IN THE MUNICIPAL COURT OF THE TOWN OF SEWALL'S POINT AND PROVIDING THAT CASES IN THE MUNICIPAL COURT SHALL BE TRANSFERRED TO THE COUNTY COURT OF MARTIN COUNTY WHEN THE DEFENDANTS IN THE MUNICIPAL COURT CASE REQUESTS A JURY TRIAL.

WHEREAS, by Chapter 70-372 of the 1970 Acts of the Legislature, and also Chapter 70-279 of the 1970 Acts of the Legislature make provisions under certain circumstances for jury trials in Municipal Courts, and

WHEREAS, the procedure is to the effect that when defendant in the Municipal Court under certain circumstances as set out in the above two legislative acts requests a jury trial, the municipality can provide such a jury trial or transfer the cause to the court in the County of Martin which has jury trials for misdemeanors, and

WHEREAS, the Municipality can decline to set up a procedure for jury trials if it so desires, and

WHEREAS, the Town of Sewall's Point does not desire at this time to set up the judicial machinery for empanelling and having jury trials in Municipal Court, and

WHEREAS, it is the desire of the Town Commission to transfer all such cases wherein a jury trial is requested to the County Court of Martin County, Florida, it being the court in Martin County that provides jury trials for misdemeanors.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN  
OF SEWALL'S POINT, FLORIDA:

If and when any defendant in a criminal case pending in the  
Municipal Court of the Town of Sewall's Point pursuant to  
Chapter 70-372 and Chapter 70-279, requests by Petition  
a transfer of the case to the Court for a jury trial, then in  
that event the proper authorities of the Town of Sewall's  
Point will comply with Chapter 70-372 and Chapter 70-279  
and transfer the necessary papers, documents and evidence  
to the Clerk of the County Court of Martin County, Florida,  
and to the County Prosecutor of Martin County, and other-  
wise comply with those two Chapters so that the defendants  
in a Municipal Court will in fact receive a jury trial.

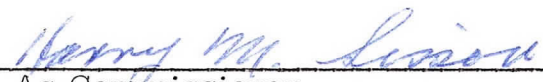
This Resolution was passed and adopted this 14 day of  
October, 1970.



As Mayor-Commissioner

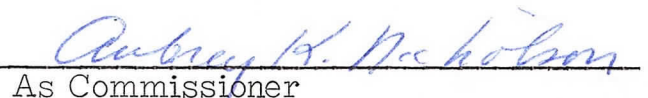


As Commissioner



As Commissioner

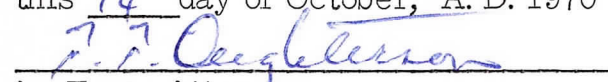
As Commissioner



As Commissioner

Attest:   
Town Clerk

Approved as to form and correctness  
this 14 day of October, A. D. 1970

  
As Town Attorney

R.84

MEMORANDUM WITH REFERENCE TO JURY TRIALS IN  
MUNICIPAL COURTS

Chapter 70-372 of the 1970 Acts of the Florida Legislature provides for a jury trial in Municipal Court when the violation of the municipal ordinance is also a violation of a State Law.

If the Municipal Court has not set up for the machinery of a jury trial, then the case is to be transferred to the appropriate court which provides trial by jury if a request for jury trial is made.

The Act states that prior to the commencement of the trial in the court not providing jury trials ( the Municipal Court) the person charged or the attorney representing him should file a Petition to request a transfer to the appropriate court that provides trial by jury. The Act sets out a suggested form of a Petition and what should be included in the Petition.

The Judge entertains the Petition and enters an Order by writing on the Petition that the case is transferred to such and such a court. Provisions are made for notifying the bondsman.

It is therefore the duty of the Clerk of the municipality, upon receipt of a copy of the Judge's Order within three days to transmit to the Clerk of Court providing jury trial jurisdiction all of the original record materials, including bond of defendant, if any, and the Petition to Transfer, certifying that they are all the original papers and filed and kept by the Municipal Clerk. The Court to which the papers are to be sent from the Town of Sewall's Point will be the Clerk of the County Court, Martin County, Courthouse, Stuart, Florida, that being Mrs Dorothy Pierce. The County Court is the court that handles misdemeanor cases and permits jury trials.

In addition the Clerk of the Town of Sewall's Point shall transmit copies of all the record and materials to the Prosecuting Attorney of the Court providing jury trial jurisdiction. The Prosecuting Attorney of the County Court is Wm. A. Oughterson, P. O. Drawer 85, Stuart, Florida.

As mentioned above, the Clerk shall also furnish a Notice of Transfer to the bondsman if the defendant is out on bond.

Upon the entry of the order transferring the cause to the County Court, it shall be the duty of the police authority of the Court of the Town of Sewall's Point to transfer a complete and exact duplicate of all reports, records and other papers relating to the case to the Prosecuting Attorney. It is my opinion that the police must complete the transfer of their records within three days after the judge enters the Order of Transfer.

The Act then provides that the Prosecuting Attorney has a certain period of time - 30 days - in which to investigate the matter and file charges, etc. if the defendant is not in jail.

Apparently the Prosecuting Attorney has to file new charges based upon the charges that came from the Town. The Prosecuting Attorney can decline to file and the case will be dismissed.

If the Prosecuting Attorney does not act on this within 30 days, the case will be automatically dismissed by the Clerk of the Court in which the cause is pending, which would be in the County Court.

The Act further provides that when a person is in jail for a violation of a municipal ordinance, the County prosecuting attorney must file charges within three days after the Municipal Judge enters his Order transferring the case to the County Court.

This Act provides suggested forms for the Petition and on the same document is the place for the Judge to endorse his Order of Transfer, and then also there is a place for the bail bondsman to agree to the transfer from one court to the other.

Now, in addition to the above Act of the Legislature, there has been an amendment of the Motor Vehicle-Chemical Test Intoxicating Persons Act, Chapter 70-279 enacted at the last session of the Legislature. This goes on and makes provisions for chemical tests in case of drunkenness, etc. and then in Section 4 of the Act it provides in substance that any person charged and/or tested under the provisions of this Act, whether in a Municipality or not, will be entitled to a trial by jury on demand. The Act further states that in the event the person so charged is arraigned in a Municipal Court, said Municipality shall either set up the proper procedure to provide a jury trial or transfer the cause to the court of competent jurisdiction in the county where the municipality is located, and that would of course be the County Court of Martin County. The procedure with regard to D. W. I. cases would be the same as with reference to cases discussed above.

I therefore do not believe that it is necessary to have any formal ordinance enacted by the Town of Sewall's Point but we should adopt a resolution providing that the Town is not going to have jury trials, and that the procedure will be to transfer all cases to the County Court of Martin County when such request for jury trial is made.

cc: Mrs Robert B. Smith  
Clerk Town of Sewall's Point  
Jensen Beach, Florida 33457

cc: Honorable Harry F. Dyer  
Judge City Court  
Stuart, Florida 33494

cc: Mr Frank Kotze  
Chief of Police  
Town of Sewall's Point  
Jensen Beach, Florida 33457