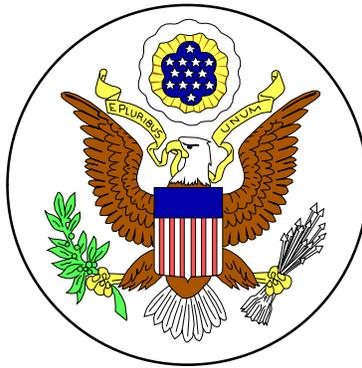


JUDICIAL CONFERENCE OF THE UNITED STATES

STATEMENT OF

**JUDGE FRANK HULL
MEMBER, COMMITTEE ON SPACE AND FACILITIES**



BEFORE

**THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT**

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

**“SITTING ON OUR ASSETS:
THE VACANT FEDERAL COURTHOUSE IN MIAMI”**

**FIELD HEARING IN MIAMI, FLORIDA
AUGUST 6, 2012**

Good morning, Chairman Denham and members of the Subcommittee. My name is Frank Hull, and I am a Circuit Judge on the United States Court of Appeals for the Eleventh Circuit, resident in Atlanta, Georgia. I also serve as the representative from my circuit to the Judicial Conference's Space and Facilities Committee, and it is in my capacity as a committee member that I appear before you today.

I appreciate the opportunity to appear before the Subcommittee to discuss with you the federal Judiciary's court facilities in Miami, Florida. In light of the topic the Subcommittee assigned to this hearing, I wish to state at the outset that the decision of what to do with the vacant David D. Dyer Federal Building and United States Courthouse (the "Dyer Building") is one that rests with the General Services Administration (GSA). My statement will describe the current housing plan in Miami and why a new courthouse was needed and built there.

The Southern District of Florida has long been one of the busiest federal trial courts in the United States. For the past seven years, the average weighted case filings per authorized judgeship in the Southern District have been significantly higher than the national average. There are ninety-four federal judicial districts in the United States, and the Southern District ranks seventh nationwide in total case filings and sixteenth in case filings per authorized judgeship. The Miami Division, the headquarters location for the Southern District, receives almost twice as many civil and criminal filings as any other division in the Southern District. Further, the Southern District ranks third in the nation in number of multi-defendant cases involving six or more defendants.

The Miami Division is currently housed in four locations: (1) The Wilkie D. Ferguson, Jr. Courthouse (the "Ferguson Courthouse") is the newest facility and was occupied by the court in 2008. It houses all of the active district court judges and two senior district court judges in

Miami. (2) The James Lawrence King Federal Justice Building (the “King Building”) houses one senior district court judge, four court of appeals judges from the Eleventh Circuit, and four magistrate judges. (3) The C. Clyde Atkins U.S. Courthouse (the “Atkins Courthouse”) houses eight more magistrate judges and one senior district court judge. (4) The Claude Pepper Federal Building (the “Pepper Building”) houses the three judges on the bankruptcy court. A chart of all the judges in the Miami Division and the courtrooms they occupy was provided to the Subcommittee prior to the hearing, but is also attached again at the end of my statement for the record.

Need for the Ferguson Courthouse

The Ferguson Courthouse was constructed to largely replace the Dyer Building, which was built in 1933, and to consolidate the active district judges into one facility. Prior to the construction of the Ferguson Courthouse, two more buildings were added to the Dyer complex to accommodate the growing district court – the Atkins Courthouse in 1983 and the King Building in 1993. The bankruptcy court was also assigned a portion of the Pepper Building, which was built in 1963. The complex reached full capacity in 1995 and a new court facility was proposed for funding in fiscal year 1997. At that point in time, additional courtrooms and chambers were also needed for new judges who would be appointed to replace judges about to assume senior status and for two new judgeships which had been requested by the Judicial Conference of the United States for the Southern District of Florida.

At that same time, the Southern District led the nation in the number of criminal jury trials. Criminal and civil case filings nearly doubled during the 1990s. The Miami Division, in particular, was handling high-profile cases, such as the Noriega trial and had large multi-defendant drug trafficking trials, such as the Cali Cartel trial. Neither the Dyer Building nor the

other buildings could meet the growing space needs of the Miami Division or its increased security requirements.

Security was a major concern of the Miami Division, as the Dyer Building had no secure separate circulation patterns for prisoners, the general public and judicial officers. The U.S. Marshal led prisoners through the public corridors in shackles and in plain view of the public, potential jurors, witnesses and judges. Court security officers also had to escort judges to one of the courtrooms in order to ensure their safety. In a survey of prisoner handling facilities nationwide, the U.S. Marshals Service gave the Dyer Building a score well below the minimally acceptable security and safety standards.

It is my understanding that once the new Ferguson Courthouse was constructed, GSA initially planned to renovate and backfill the Dyer Building with the bankruptcy court, the court of appeals' mediation program, some senior district judges and other Executive Branch agencies. I also understand, however, that the appropriations requested by GSA in 2004 and in 2007 to fund the renovations necessary to accomplish the backfill were not approved by Congress. The Dyer Building, therefore, has been vacant since the district court moved to the new Ferguson Courthouse in 2008, and subsequently the Judiciary no longer paid rent on that building.

Use of Our Existing Courthouse Space

When the Ferguson Courthouse was constructed, fourteen courtrooms were completed in the new facility and two more courtrooms were shelled (or framed), to be built out when needed in the future. The building was designed to meet the space needs of the Miami Division for ten years. The court has now been in the Ferguson Courthouse for four years and the building is full, with the exception of one district judge's courtroom and the two shelled courtroom spaces.

The court is continuing to grow. Seven of the active district court judges in the Ferguson

Courthouse will become eligible for senior status within the next five years. While the senior judges will share courtrooms pursuant to Judicial Conference policy, the Ferguson Courthouse will then be filled by the new active judges appointed by Congress as their replacements. The senior judges, for the most part, will then be assigned to the King and Atkins Buildings in the court complex. There may also be a need to construct additional chambers in the complex to accommodate this growth. Finally, the Judicial Conference has approved a request to Congress to create three new judgeships for the Southern District of Florida and to make one temporary judgeship permanent. It is expected that at least one of these judgeships will go to the Miami Division. While these judgeships have not yet been approved by Congress, the need for these judgeships remains critical.

The Ferguson Courthouse, together with other existing facilities in Miami, was planned to accommodate both the current needs of the Miami Division and its future growth. When the construction funding for the new Ferguson Courthouse was approved in fiscal years 2001 and 2002, the Judiciary had only a limited courtroom sharing policy for senior judges, encouraging them to share where feasible and requiring it after ten years in senior status. The Judiciary's current mandatory courtroom sharing policies for senior judges, magistrate judges and bankruptcy judges were not yet in place. These sharing policies will, of course, be applied to all future growth in the court.

Utilization or Disposition of the Dyer Building

Decisions about the Dyer Building are strictly in the purview of GSA. However, I want to note for the Subcommittee and GSA that the Miami court has two concerns needing resolution if GSA decides to dispose of the Dyer Building.

- The Atkins Courthouse was constructed as an annex connected to the Dyer Building. Both buildings share one physical plant that provides all mechanical systems, including heating and air conditioning. GSA would have to use its funds, or seek additional funds, to separate the physical plant mechanical systems of the Dyer Building from the Atkins Courthouse. They would need to meet current code requirements, and the Green Building (LEED) initiatives of the government. In addition, all court operations must be able to remain open during this bifurcation process.
- Closing the Dyer Building would affect the perimeter security of the Atkins Courthouse since they share a courtyard on the east side of the building. Adjustments will have to be made to maintain the same level of perimeter security around the Atkins Courthouse.

The Judiciary is confident that we can work with GSA to ensure that these concerns are addressed.

Conclusion

Mr. Chairman and members of the Subcommittee, thank you again for the opportunity to provide background on the Judiciary's court facilities in Miami, the largest division in the Southern District of Florida and one of the busiest districts in the United States. When the Ferguson Courthouse was planned, it was designed to meet the 10-year needs of the court, one of the busiest in the nation and we expect that the work of the Miami court will only increase in the future. The population of Miami grew by nearly 20% over the last ten years, and it is projected to increase by another 35% over the next 15 years. This area is a center of international banking and trade. Unfortunately, it is also a final destination point for drug shipments and a smuggling corridor for drugs transported along the East Coast. These two factors increase even more the already large civil and criminal caseload of the Miami court.

The Space and Facilities Committee of the Judicial Conference takes very seriously its responsibility to provide secure places with adequate space to administer justice and ultimately,

to provide a valuable service to the public. The Judiciary has continued to improve and refine its space planning process to establish a systematic approach to space and facilities planning, mindful of costs. I will be happy to answer any questions that you may have about the subjects raised in this testimony to the best of my ability.

Federal Judges and Courtrooms in Miami, Florida

August 1, 2012

Wilkie D. Ferguson, Jr. Courthouse (2007), 400 North Miami Avenue

1.	District Judge Martinez	Courtroom 10-1
2.	Replacement Judge	Courtroom 10-2
3.	(shelled space) ¹	Courtroom 10-3
4.	(shelled space) ¹	Courtroom 10-4
5.	Senior District Judge Gold	Courtroom 11-1
6.	District Judge Cooke	Courtroom 11-2
7.	District Judge Williams	Courtroom 11-3
8.	District Judge Seitz	Courtroom 11-4
9.	District Judge Lenard	Courtroom 12-1
10.	District Judge Altonaga	Courtroom 12-2
11.	District Judge Scola	Courtroom 12-3
12.	District Judge Ungaro	Courtroom 12-4
13.	District Judge Moore	Courtroom 13-1
14.	Senior District Judge Huck	Courtroom 13-2
15.	Chief District Judge Moreno	Courtroom 13-3
16.	District Judge Graham	Courtroom 13-4

James Lawrence King Federal Justice Building (1992), 99 Northeast Fourth Street

1.	Magistrate Judge Palermo (recalled) ²	Courtroom 10A
2.	Magistrate Judge Torres	Courtroom 10B
3.	Magistrate Judge Garber (recalled) ²	Courtroom 10C
4.	Magistrate Judge Dubé (recalled) ²	Courtroom 11A
5.	Senior District Judge King	Courtroom 11B
6.	Visiting Judge ³	Courtroom 11
7.	Circuit Panel Courtroom ⁴	Courtroom 12A

C. Clyde Atkins Courthouse (1983), 301 North Miami Avenue

1.	Magistrate Judge White	Courtroom 3A
2.	Magistrate Judge Goodman	Courtroom 4A
3.	Magistrate Judge O'Sullivan	Courtroom 5A
4.	Magistrate Judge McAiley	Courtroom 6A
5.	Magistrate Judge Bandstra	Courtroom 7A
6.	Magistrate Judge Simonton	Courtroom 8A
7.	Senior District Judge Hoeveler	Courtroom 9A
8.	Magistrate Otazo-Reyes	Courtroom 10A
9.	Magistrate Judge Turnoff	Courtroom 11A

Claude Pepper Federal Building (1978), 51 Southwest First Avenue

1.	Bankruptcy Judge Mark	Courtroom 14A
2.	Bankruptcy Judge Isicoff	Courtroom 14B
3.	Bankruptcy Judge Cristol	Courtroom 14C

¹The spaces for these two courtrooms have not yet been built out. They will provide space in the future for replacement judges. Seven district judges are eligible to take senior status within the next five years.

²A recalled magistrate judge is a magistrate judge who has retired, but was called back by the court to assist with a heavy caseload.

³Judge Middlebrooks (resident in West PalmBeach) carries a 50% Miami criminal caseload and uses this courtroom while in Miami.

⁴Four resident Court of Appeals judges share this courtroom, as do all non-resident Eleventh Circuit Court of Appeals judges when they sit in Miami.