

**THE ELEVENTH JUDICIAL CIRCUIT  
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 09-1  
(Court Administration)**

**ADMINISTRATIVE ORDER  
NO. 09-17  
(Rescinding AO No. 01-06)**

**IN RE: Forfeiture/Disposal of Illegally  
Taken Fish and Wildlife**

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**WHEREAS**, the law enforcement officers (hereinafter, referred to as "Officers") of the Florida Fish and Wildlife Conservation Commission (FWC),<sup>1</sup> are charged with enforcing all laws, rules, and regulations relating to wildlife, freshwater fish, and saltwater fish; and

**WHEREAS**, in the course of carrying out their duties, the Officers must occasionally seize living and dead illegally taken wildlife, freshwater fish, and saltwater fish (hereinafter, collectively called "contraband"); and

**WHEREAS**, it is more consistent with the Officers' mission if they are able to return living contraband to its natural habitat; and

**WHEREAS**, it is more economical, practical, and desirable to promptly dispose of dead contraband instead of storing it during the pendency of prosecutions; and

**WHEREAS**, §379.338 (1), Fla. Stat.,<sup>2</sup> permits, in accordance with a court order if the court so orders, the forfeiture and disposal of such contraband by the investigating law enforcement agency, prior to conviction; and

**WHEREAS**, §379.3381, Fla. Stat.,<sup>3</sup> permits a properly authenticated photograph to be

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<sup>1</sup> Although reference is made to FWC Officers because they are the law enforcement personnel most likely to be involved in seizures of living or dead wildlife, freshwater fish, and saltwater fish, the provisions of this order are equally applicable to any certified law enforcement officer and law enforcement agency.

<sup>2</sup> Section 379.338 (1). Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish.

All wildlife, freshwater fish, and saltwater fish seized under the authority of this chapter, any other chapter, or rules of the commission shall, upon conviction of the offender or sooner in accordance with a court order if the court so orders, be forfeited to the investigating law enforcement agency. The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection.

<sup>3</sup> Section 379.3381. Photographic evidence of illegally taken wildlife, freshwater fish, and saltwater fish.

substituted for any contraband seized by Officers and for the photographs to be admitted into evidence to the same extent that the contraband itself would be admissible;

**NOW, THEREFORE**, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby **ORDERED**:

**1. DEFINITIONS**

- (a) "Authentication" means a law enforcement officer that meets the requirements of §379.3381, Fla. Stat., as amended from time to time.
- (b) "Contraband" means all illegal or illegally taken wildlife, freshwater fish, and saltwater fish.
- (c) "Statutory authority" means the provisions of Chapter 379 of the Florida Statutes and the rules of the Florida Administrative Code made by the Fish and Wildlife Conservation Commission pursuant to that Chapter, as same may be amended from time to time.

**2. APPLICATION**

- (a) When an arrest is made pursuant to statutory authority and contraband is seized, the law enforcement agency that seized the contraband is authorized to dispose of it, immediately or as soon as practicable, in accordance with §379.338, Fla. Stat. and the rules of the Florida Administrative Code made by the Fish and Wildlife Conservation Commission pursuant to Chapter 379, as amended from time to time, and paragraph (b) below.
- (b) All photographs of contraband must be authenticated as required by §379.3381, Fla. Stat., as amended from time to time, and this Administrative Order, and after authentication, the photographs shall be filed with the law enforcement agency or the court as soon as practicable.

Administrative Order No. 01-06 is hereby rescinded in its entirety and held for naught.

This Order shall take effect immediately and shall remain in effect until further order of the Court.

**DONE AND ORDERED** in Chambers at Miami-Dade, Florida, this \_\_\_\_\_ day of November, 2009.

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**JOEL H. BROWN, CHIEF JUDGE  
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

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In any prosecution for a violation of this chapter, any other chapter, or rules of the commission, a photograph of illegally taken wildlife, freshwater fish, or saltwater fish may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such wildlife, freshwater fish, or saltwater fish were introduced as evidence. Such photograph shall bear a written description of the wildlife, freshwater fish, or saltwater fish alleged to have been illegally taken, the name of the violator, the location where the alleged illegal taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. Such writing shall be made under oath by the investigating law enforcement officer, and the photograph shall be identified by the signature of the photographer.