

**IN THE CIRCUIT COURT OF
THE SIXTEENTH JUDICIAL
CIRCUIT IN AND FOR
MONROE COUNTY, FLORIDA**

Administrative Order No. 4.0010

IN RE:

**ESTABLISHMENT OF AN ADULT
DIVERSION TREATMENT-BASED DRUG
COURT PROGRAM**

WHEREAS, the Legislature of the State of Florida has determined that substance abuse is a major health problem leading to catastrophic consequences to families in this State and to society in general; and

WHEREAS, it has been the intent of the Legislature to establish and maintain treatment programs for those impaired by substance abuse, and in furtherance of that intent the Legislature provided in Chapter 397, Florida Statutes, for substance abuse services, including the establishment of local drug courts; and

WHEREAS, the Sixteenth Judicial Circuit has historically joined with the Legislature in its determination to establish and maintain those treatment programs; and

WHEREAS, the Sixteenth Judicial Circuit seeks to assist Monroe County in the operation of its comprehensive anti-drug abuse program whereby defendants receive drug treatment and support services; and

WHEREAS, to effectuate the intent of the Legislature and the aforesaid policy of the Sixteenth Circuit and Monroe County,

It is therefore **ORDERED** that:

1. An Adult Diversion Drug Court shall handle eligible cases from the circuit criminal divisions for possible referral into drug abuse treatment.
2. Those eligible for the pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to §397.334, and more specifically in 948.08 (6)(a), shall include any person who is charged with a felony of the second or third degree for the purchase or possession of a controlled substance under Chapter 893, Florida Statutes, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud; who has not been charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home invasion

robbery, or any other crime involving violence; and who has not previously been convicted of a felony nor been admitted to a felony pretrial program referred to in this section.

3. The Drug Court Manager or designee will review the defendant's case to determine if the defendant meets the statutory criteria for admission into the Drug Court's substance abuse treatment program. If the defendant meets the criteria for admission, or if the State Attorney believes that it is otherwise appropriate, the Defendant's name will be forwarded to a Drug Court Case Manager for purposes of determining provisional eligibility and acceptance into the 16th Judicial Circuit Drug Court.

4. Upon receipt of the defendant's name, the Drug Court Case Manager shall notify the defendant, and the defendant's attorney of record, if any, prior to conducting a screening interview with the defendant. At the interview, a representative of the Drug Court will explain the purpose and operation of the program to the defendant, and determine whether or not the defendant wishes to participate in the program. If the defendant does not wish to participate in this program, the case will remain on the criminal docket and the State Attorney's Office is free to proceed with prosecution of the defendant.

5. If the defendant does wish to participate in the program, personnel of the 16th Judicial Circuit Drug Court Program shall prepare the placement paperwork. The placement paperwork shall stipulate that the program will last for no less than twelve (12) months for felony defendants. This document shall also state the conditions of the defendant's enrollment in the 16th Judicial Drug Court in order to receive substance abuse education, intervention and treatment services.

6. Once the defendant has agreed to participate in the 16th Judicial Circuit Drug Court Program, a placement hearing will be scheduled on the open motion calendar of the assigned Drug Court Judge. The defendant will sign all required placement documents prior to the judge's execution of the Diversion Drug Court Placement Order. Once the judge executes the Order, the Defendant becomes an active Diversion Drug Court Participant.

7. During the period of the defendant's participation in the 16th Judicial Circuit Drug Court Program, the Drug Court shall monitor the defendant's treatment progress and compliance with the rules and regulations.

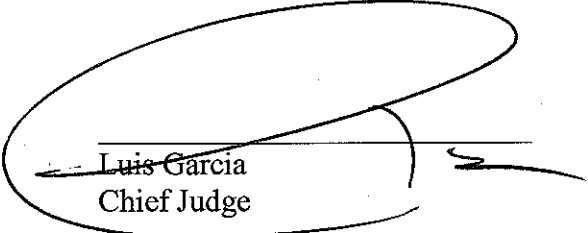
8. In the event that the defendant violates the conditions of the program, the alleged violation shall be treated as an alleged violation of the terms and conditions of treatment. The Drug Court personnel shall notify the defendant, the Drug Court Judge, and the State Attorney of the alleged violations and have the matter set for hearing.

9. At the hearing, the defendant may be found in contempt of court and the judge may impose a number of sanctions which may include incarceration or termination from the program.

10. If a defendant's participation in the program is terminated for cause, the defendant's case shall be remanded to the division from which the case originated prior to its referral to Drug Court.

11. Upon the successful completion of the Program by the defendant, the Court shall make findings regarding the defendant's successful completion of the Program and dismiss the charge(s). Any person whose charges are dismissed after successful completion of the treatment-based drug program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under Florida Statute 943.0585.

DONE and **ORDERED** in chambers in Plantation Key, Florida, this 4th day of September, 2009.



Luis Garcia
Chief Judge