

ADMINISTRATIVE ORDER
NO. 2018-24

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE AND OSECOLA
COUNTIES, FLORIDA

ORDER ESTABLISHING A FELONY PRE-TRIAL INTERVENTION PROGRAM

WHEREAS, pursuant to Article V, Section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, section 948.08(6)(a), Florida Statutes, and the inherent authority of the Ninth Judicial Circuit allows for the establishment of a Pre-Trial Substance Abuse Education and Treatment Intervention Program for felonies; and

WHEREAS, the interests of justice will be served by establishing a consistent fair process whereby qualified defendants can be afforded an opportunity to participate in a Pre-Trial Intervention Program; and

WHEREAS, the proper implementation of a Pre-Trial Intervention Program will provide a valuable alternative to prosecution in appropriate cases and will provide a substantial benefit to the criminal justice system and the community as a whole for defendants who are identified as having substance abuse disorders, meet the requirements for the Program, and qualify pursuant to Florida Statutes;

NOW, THEREFORE, I, Frederick J. Lauten, in order to facilitate the efficient operation of the administration of justice, and pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, hereby order that, **effective immediately** unless otherwise provided herein, to continue until further order, and superseding any provisions in prior Administrative Orders which may be inconsistent:

A. PRE-TRIAL SUBSTANCE ABUSE EDUCATION AND TREATMENT INTERVENTION PROGRAM FOR FELONIES

1. Any person charged with a nonviolent felony defined as a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in section 776.08, Florida Statutes, and is identified as having a substance abuse problem or is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, 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 is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program for a period of not less than one (1) year in duration, upon motion of either party or the court's own motion, except:

a. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

b. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

2. While enrolled in the pretrial intervention program, the participant will be supervised by the Department of Corrections and must pay all supervision fees.
3. While enrolled in the pretrial intervention program, the participant must complete a substance abuse assessment and any recommended treatment at the defendant's own expense.
4. The defendant must complete a substance abuse assessment and subsequent treatment from a provider approved by the Department of Corrections.
5. The court may order the defendant to complete additional requirements.
6. The court will hold periodic hearings, no less than every ninety (90) days, to ensure the defendant's continued compliance with the requirements of the Pre-trial Intervention Program.
7. The court shall use the uniform "Order Granting Defendant's Motion for Pre-Trial Substance Abuse Education and Treatment Intervention Program and Setting Status Hearing" attached hereto as "Attachment A" for Orange County and "Attachment B" for Osceola County when authorizing participation in the Pre-trial Intervention Program.
8. At the end of the pretrial intervention period, the court shall consider the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the Pre-trial Intervention Program.
9. If the court finds that the defendant has not successfully completed the Pre-trial Intervention Program, the court may order the defendant to continue in education and treatment, which may include substance abuse treatment programs offered by licensed service providers as defined in section 397.311, Florida Statutes, or jail-based treatment programs, or order that the charges revert to normal channels for prosecution.

10. The court shall dismiss the charges upon a finding that the defendant has successfully completed the Pre-trial Intervention Program.

11. Administrative Order 2009-19-01 is vacated and set aside except to the extent that it has been incorporated and/or amended herein. Vacating an Administrative Order that vacates a prior Order does not revive the prior Order.

DONE AND ORDERED at Orlando, Florida, this 24th day of September, 2018.

_____/s/_____
Frederick J. Lauten
Chief Judge

Copies provided to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>

“Attachment A”

IN THE CIRCUIT COURT, NINTH JUDICIAL
CIRCUIT, CRIMINAL JUSTICE DVISION,
IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO:
DIVISION:

STATE OF FLORIDA
Plaintiff,

v.

>

Defendant.

_____ /

**ORDER GRANTING DEFENDANT’S MOTION FOR PRE-TRIAL SUBSTANCE ABUSE
EDUCATION AND TREATMENT INTERVENTION PROGRAM
AND SETTING STATUS HEARINGS**

THIS CAUSE having come before the Court and the Court having been fully advised in the premises, it is hereby

ORDERED that the Defendant’s Motion for Pre-Trial Substance Abuse Education and Treatment Intervention Program is GRANTED. It is further,

ORDERED, pursuant to F.S. 948.08(6), that the Defendant enter into the Pre-Trial Substance Abuse Education and Treatment Intervention Program (the Program). Defendant is to comply with the following conditions:

1. This Court places Defendant into the Program for ____ years and ____ months. (Minimum of 1 year pursuant to F.S. 948.08(6)(a).)
2. Pursuant to F.S. 948.08(1), the Department of Corrections will supervise Defendant while in the Program.
3. The Department of Corrections will report on the Defendant’s progress in the Program to the Court. The Department will provide these reports to the Court at least three business days before each Program status date.
4. Defendant must report to the probation office, located at 29 Coburn Avenue, Orlando, FL, 32805, Phone: (407) 245-0701, within 48 hours.

5. Defendant will report to the probation office as directed by the officer, but not less than monthly. Not later than the fifth day of each month, unless otherwise directed, Defendant will make a full and truthful report to the officer on the form provided for that purpose.
6. Defendant will pay the State of Florida the amount of \$20.00 per month, toward cost of supervision, in accordance with F.S. 948.09(1)(a)2, unless otherwise exempted in compliance with Florida Statutes.
7. Defendant will promptly and truthfully answer all inquiries directed by the court or the officer, and allow the officer to visit in Defendant's home and will comply with all instructions the officer may give.
8. Defendant will remain in a specified place. Defendant will not change residence or employment or leave the county of residence without first procuring the consent of the officer.
9. Defendant will not possess, carry or own any firearms. Defendant will not possess, carry, or own any weapons without first procuring the consent of the officer.
10. Defendant shall refrain from violation of any federal, state or local law. A Court's finding of probable cause to arrest, while in the Program, subjects Defendant to revocation of the Program at the discretion of the Court.
11. Defendant will not associate with any person engaged in any criminal activity.
12. Defendant will maintain full time employment or attend school/vocational school full time or a combination of school/work during the term of the Program, unless excused by the Court or supervising officer. Employment shall be verified by paycheck stubs.
The officer _____ **shall** _____ **shall not** notify the employer of the supervision and the offense or offenses for which the defendant is in the Program.
13. Defendant will abstain entirely from the use of alcohol and/or illegal drugs and will not associate with anyone who is illegally using drugs or consuming alcohol.
14. Defendant must undergo a drug and alcohol evaluation and, if treatment is deemed necessary. Defendant must successfully complete the treatment and be responsible for the payment of any costs incurred while receiving said evaluation and treatment.
15. Defendant will submit to random testing as directed by the officer or the professional staff of the treatment center where Defendant is receiving treatment to determine the presence or use of alcohol or controlled substances. Random testing shall be no less than monthly. Defendant will be required to pay for drug testing.

Check all that apply of paragraphs 16 through 22.

- ___16. Defendant must complete ___ hours of community service through the Alternative Community Service program or other non-profit agency approved by the officer.
- ___17. Defendant will have no contact (direct or indirect) with the victim or the victim's family during the period of the Program.
- ___18. Defendant will pay restitution, court costs, and/or fees in accordance with special conditions imposed or in accordance with the attached orders.
- ___19. Defendant will have no contact with co-defendant(s).

For cases charged pursuant to F.S. 796.07(4)(b):

- ___20. Defendant will attend an HIV/AIDS Awareness Program consisting of a class of not less than two (2) hours or more than four (4) hours in length, the costs for which will be paid by Defendant.
- ___21. Defendant must take an HIV/STD test.
- ___22. Defendant must not return to the prostitution mapping zone.
- ___23. _____
- 24. Any violation of this Order, as determined by this Court, subjects Defendant to revocation from the Program or other sanctions as authorized by law, at the discretion of the Court.
- 25. Defendant is released on their own recognizance as to this case only.

Pre-Trial Intervention status hearings are set as follows:

The hearings will be conducted in Courtroom _____, Orange County Courthouse, 425 N. Orange Avenue, Orlando, Florida 32801. **Defendant must be present at each of these hearings.**

DONE and ORDERED this _____ day of _____, 20 _____.

Circuit Judge

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Human Resources, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, Florida, (407) 836-2303, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

“Attachment B”

IN THE CIRCUIT COURT, NINTH JUDICIAL
CIRCUIT, CRIMINAL JUSTICE DVISION,
IN AND FOR OSCEOLA COUNTY, FLORIDA

CASE NO:
DIVISION:

STATE OF FLORIDA
Plaintiff,

v.

>

Defendant.

_____ /

**ORDER GRANTING DEFENDANT’S MOTION FOR PRE-TRIAL SUBSTANCE ABUSE
EDUCATION AND TREATMENT INTERVENTION PROGRAM
AND SETTING STATUS HEARINGS**

THIS CAUSE having come before the Court and the Court having been fully advised in the premises, it is hereby

ORDERED that the Defendant’s Motion for Pre-Trial Substance Abuse Education and Treatment Intervention Program is GRANTED. It is further,

ORDERED, pursuant to F.S. 948.08(6), that the Defendant enter into the Pre-Trial Substance Abuse Education and Treatment Intervention Program (the Program). Defendant is to comply with the following conditions:

1. This Court places Defendant into the Program for ____ years and ____ months.
(Minimum of 1 year pursuant to F.S. 948.08(6)(a).)
2. Pursuant to F.S. 948.08(1), the Department of Corrections will supervise Defendant while in the Program.
3. The Department of Corrections will report on the Defendant’s progress in the Program to the Court. The Department will provide these reports to the Court at least three business days before each Program status date.
4. Defendant must report to the probation office, located at 1605 N. John Young Parkway, Kissimmee, FL, 34741, Phone: (407) 846-5215, within 48 hours.

5. Defendant will report to the probation office as directed by the officer, but not less than monthly. Not later than the fifth day of each month, unless otherwise directed, Defendant will make a full and truthful report to the officer on the form provided for that purpose.
6. Defendant will pay the State of Florida the amount of \$20.00 per month, toward cost of supervision, in accordance with F.S. 948.09(1)(a)2, unless otherwise exempted in compliance with Florida Statutes.
7. Defendant will promptly and truthfully answer all inquiries directed by the court or the officer, and allow the officer to visit in Defendant's home and will comply with all instructions the officer may give.
8. Defendant will remain in a specified place. Defendant will not change residence or employment or leave the county of residence without first procuring the consent of the officer.
9. Defendant will not possess, carry or own any firearms. Defendant will not possess, carry, or own any weapons without first procuring the consent of the officer.
10. Defendant shall refrain from violation of any federal, state or local law. A Court's finding of probable cause to arrest, while in the Program, subjects Defendant to revocation of the Program at the discretion of the Court.
11. Defendant will not associate with any person engaged in any criminal activity.
12. Defendant will maintain full time employment or attend school/vocational school full time or a combination of school/work during the term of the Program, unless excused by the Court or supervising officer. Employment shall be verified by paycheck stubs.
The officer _____ **shall** _____ **shall not** notify the employer of the supervision and the offense or offenses for which the defendant is in the Program.
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14. Defendant must undergo a drug and alcohol evaluation and, if treatment is deemed necessary. Defendant must successfully complete the treatment and be responsible for the payment of any costs incurred while receiving said evaluation and treatment.
15. Defendant will submit to random testing as directed by the officer or the professional staff of the treatment center where Defendant is receiving treatment to determine the presence or use of alcohol or controlled substances. Random testing shall be no less than monthly. Defendant will be required to pay for drug testing.

Check all that apply of paragraphs 16 through 22.

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- ___21. Defendant must take an HIV/STD test.
- ___22. Defendant must not return to the prostitution mapping zone.
- ___23. _____

- 24. Any violation of this order, as determined by this Court, subjects Defendant to revocation from the Program or other sanctions as authorized by law, at the discretion of the Court.
- 25. Defendant is released on their own recognizance as to this case only.
- 26. Pre-Trial Intervention status hearings are set as follows:

The hearings will be conducted in Courtroom _____, Osceola County Courthouse, 2 Courthouse Square, Kissimmee, Florida 34741. **Defendant must be present at each of these hearings.**

DONE and ORDERED this _____ day of _____, 20 ____.

Circuit Judge

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Human Resources, Osceola County Courthouse, 2 Courthouse Square, Kissimmee, Florida, (407) 742-2417, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.