

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT, IN
AND FOR BROWARD COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.: III-07-E-3A

IN RE:

DRUG COURT DIVISION
_____ /

In accordance with the authority vested in the Chief Judge by Rule 2.050 of the Florida Rules of Judicial Administration and Section 948.08(6), of Florida Statutes. The Drug Court Division of the Criminal Division will continue in effect. This Order shall replace and supersede all prior Administrative Orders concerning this Division, effective February 2, 2007.

The Drug Court Division Judge's caseload will consist of cases involving defendants eligible to participate in the Broward County Judicial Pretrial Intervention Program (here in after referred to as "the program") as delineated in this Order, and all cases referred to the division for drug court monitoring by other felony division judges.

Defendants arrested, who are otherwise eligible, may participate in the program. Entry into the program is strictly on a voluntary basis. Any eligible defendant electing not to enroll in the program will have their case handled by a regular criminal division judge to whom the case is assigned for trial or after pleading to probation in the Drug Court division.

Defendants are deemed qualified to participate in the program if the offense they are charged with by Information or Indictment is a second or third degree felony, as defined in Florida Statute §893.13, alleging the purchase or possession for personal use, tampering with evidence, obtaining a controlled substance by fraud, or solicitation for purchase of a controlled substance, and not for resale or redelivery, of any controlled substance identified in Florida Statute §893.03.

As with any other felony booking, any defendant arrested for these qualifying charges will have their case randomly assigned to one of the regular criminal divisions. For those defendants who qualify for the program and are financially unable to post bond, the Broward Sheriff's Office Pretrial Services ("pretrial services") will expeditiously interview on a daily basis those arrestees in custody to preliminarily determine eligibility to participate in the Judicial Pretrial Intervention Program ("the program"), interest, and need in receiving the drug treatment that the program offers.

Defendants preliminarily determined by pretrial services to be eligible and interested in the program, will be released from custody on pretrial release status and as a condition of their release, they must immediately report to and attend the Drug Court Treatment Program at the

direction of the BSO and report to the Drug Court Judge when instructed by the pretrial services officer and/or BSO counselor. The pretrial services officer will furnish on a daily basis to the Department of Corrections, Probation and Parole Division, a list of those defendants preliminarily determined to be eligible for the program and released on pretrial release together with the applicable booking sheet, probable cause affidavit, and pretrial drug court release order. The Department of Corrections will then conduct a criminal background records check for those listed defendants and furnish its results within 24 hours to the pretrial services officer.

Upon receipt of verification of eligibility from the Department of Corrections, the pretrial services officer will notify the Clerk of Court and the Clerk of Court shall immediately transfer the eligible defendant's case from the regular criminal division to which the case was originally assigned to the Drug Court Division.

With respect to defendants who post a cash or surety bond, the pretrial services officer shall on a daily basis preliminarily review the criminal history for those arrestees charged with a qualifying charge to determine those defendants eligible to participate in the program. The pretrial services officer will then request the Department of Corrections to conduct a criminal records background check on the bonded defendants identified as potential candidates for the program. The pretrial services officer will then notify the Clerk of Court on a daily basis. The Clerk of Court will then immediately transfer the eligible defendant's case from the regular criminal division to the Drug Court Division. To expedite and encourage immediate participation by the bonded defendants in the program, the pretrial services officer will notify the defendant, the bondsmen, and the attorney to contact and report to the Drug Court Treatment Program and the Drug Court Judge as soon as possible.

At the time of the arraignment, the Department of Corrections will provide a deferred prosecution agreement that shall be signed by the defendant in order to opt into the Drug Court Treatment Program at the first status hearing. The defendant shall apply to Pre-Trial Intervention and undergo an initial interview. At arraignment, those defendants who do not choose to participate in the program shall plead to probation or have their cases transferred to the felony division to which they were originally assigned for trial purposes.

Defendants formally charged with a qualifying offense would not be eligible to participate in the program if they have previously been admitted into any pretrial intervention program (regardless of successful completion) or if they have a prior felony conviction for which an adjudication of guilt was entered. They may, however, plead to probation and participate in Drug Court.

Completion of the Pre-Trial program requires attendance for a minimum of one (1) year and no more than 18 months in the BSO Drug Court Treatment Program operated by the Broward County Sheriff's Office, or an approved alternative, and compliance with all rules and regulations of the Drug Court Division Judge, the BSO Drug Court Treatment Program, or an approved alternative treatment program, and the Department of Corrections. At the 1 year anniversary of the signing of the Deferred Prosecution Agreement the treatment provider shall review the case and inform the assigned Drug Court Judge when a defendant can not complete the treatment within the 18 months. If it is determined that the defendant can not complete the

requirements of the Drug Court Program within the 18 months, the defendant shall have the option of entering a plea of guilty or no contest before the assigned Drug Court Judge. If Probation is imposed the case will be permanently transferred back to its previously assigned criminal division for subsequent hearings, as may be necessary. Alternatively the defendant's case will be permanently transferred back to the previously assigned criminal division.

Immediately upon a determination that the defendant can not graduate by the 18th month or the 18th month period expires without the defendant completing the Drug Court requirements (whichever event comes first), absent extraordinary circumstance which are beyond the control of the defendant the clerk shall permanently transfer the case to the previously assigned criminal division.

A defendant will receive credit for the one (1) year requirement of participation in the program as of the date the defendant successfully completes the approved treatment program. The Court shall consider the recommendation of the BSO Drug Court Treatment Program or approved alternative treatment program and the Department of Corrections Pretrial Intervention Program Administrator to determine that the defendant has successfully completed the program. Upon successful completion, the Drug Court Judge shall dismiss the charge or may early terminate their probation.

Eligibility for participation in the PTI program will be precluded if it is factually determined by the Drug Court Division Judge that the defendant was involved in dealing or selling the controlled substance for which arrest the defendant is seeking admission into the program. In these circumstances, the defendant's case will be reassigned to a regular criminal division judge for trial or for future handling after a plea to probation. The motion to exclude eligibility must be filed by the State Attorney in a timely manner and evidence of dealing or selling the controlled substance in question must be established by a preponderance of the evidence. In Circumstances where cases are assigned to a non-Drug Court division and a request or motion is filed to transfer that case to drug court, the eligibility for participation in the Pretrial Intervention Program (Drug Court) will be determined by the assigned division judge by the preponderance of the evidence.

This Administrative Order does not preclude a regular criminal division judge from sentencing any defendant to attend and complete a Drug Court treatment program as ordered by the drug court division judge. Any warrants alleging a new felony offense other than for possession of a personal use amount of a controlled substance (FS 893.13) shall be presented to and issued and disposed of by the regular criminal division judge.

Defendants participating in the drug court treatment may be ordered to complete in custody treatment however, a defendant shall only be eligible to attend any specific program one time. If the Defendant completes the program or is dismissed from the program the defendant can not return to that specific program.

Defendant's participating in the Drug Court Division or those on probation and under the supervision of the Drug Court Division, shall be immediately terminated from the Drug Court Division and the case or probation permanently transferred to the previously assigned felony trial

division ninety (90) days after the issuance of a Capias from the Drug Court Division, or immediately upon the filing of a new felony offense other than for possession of a personal use amount of controlled substance (FS 893.13).

The Clerk of the Court shall immediately, permanently transfer the current Drug Court case and/or Probation case supervised by the Drug Court Division to the previously assigned felony division.

Defendants on probation in the drug court division shall immediately be permanently transferred from Drug Court to their previously assigned criminal division upon the filing of the third affidavit for violation of probation. The affidavit and warrant shall be immediately presented to the previously assigned criminal division Judge or their alternate.

All prior orders concerning participation in ADA's Drug Court will be modified to BSO Drug Court.

This Order supersedes and voids Administrative Order No. III-06-E-3.

DONE AND ORDERED at Fort Lauderdale, Broward County, Florida this the 2nd day of February 2007.

/s/DALE ROSS
DALE ROSS, Chief Judge