

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

ADMINISTRATIVE ORDER: VI-06-I-2

IN RE:

MISDEMEANOR 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 948.16 of Florida Statutes.

The Misdemeanor Drug Court Division of the County Court Criminal Division shall be created in Division ZD effective September 9, 2005.

The Misdemeanor Drug Court Division caseload will consist of cases involving defendants eligible to enter into the misdemeanor pretrial substance abuse education and treatment intervention program (hereinafter referred to as the Misdemeanor Drug Court Program or MDCP) as delineated in this Order, and all cases referred to the division for drug court monitoring by other misdemeanor division judges.

Defendants are deemed qualified to participate in MDCP if the offense they are charged with is possession of cannabis, or possession of drug paraphernalia under Chapter 893 of Florida Statutes. Defendants with these qualifying charges will be eligible to enter MDCP if they have not previously been convicted of a felony for which adjudication of guilt was entered or if they have not previously admitted to a pretrial intervention program.

The State Attorney will review criminal background information as well as the probable cause affidavit to determine eligibility. Defendants who do not meet any of the above criteria may be admitted only with the consent of the Judge, the State, and the defendant. Defendants ineligible for diversion may plead to probation and participate in MDCP.

Eligibility may be precluded if the State Attorney objects to defendant's entry due to involvement with dealing or selling of controlled substances. Evidence of dealing or selling of a controlled substance must be established by a preponderance of the evidence at a hearing before the Judge to whom the case is originally assigned or Drug Court Judge.

Any defendant arrested or given a notice to appear for these qualifying charges will have their cases assigned to one of the regular criminal divisions in the ordinary course. Motions for transfer into the Misdemeanor Drug Court Division (ZD) may be made sua sponte by any court or ore tenus, with the defendant present, by the Defense or the State accompanied by documentation, testimony, or any other specific evidence that would convince the court in

support thereof. After transfer by the referring court, and completion of a transfer order, the case will be set on the arraignment docket of the Misdemeanor Drug Court Division Judge, who shall make the final determination of the defendant's eligibility.

Eligible defendants may enter into MDCP strictly on a voluntary basis. The defendant must waive the right to speedy trial and formal discovery upon application/motion for entry into MDCP. Appropriate waivers of confidentiality shall be obtained upon entry. Any eligible defendant electing not to enter into MDCP will be set on the court's regular criminal docket or transferred to the original criminal division judge to whom the case is assigned, for trial or disposition.

At the time of arraignment or as soon thereafter as practical, the State Attorney shall advise the court of the defendant's eligibility. The Broward Sheriff's Office Day Reporting and Reentry Division (DRRD) will provide a deferred prosecution agreement to be signed by the defendant who opts into MDCP. DRRD will direct the defendant to the Broward-Dade Safety Council (BDSC) for substance abuse evaluation, education, and referral to treatment.

Completion of MDCP requires participation for a minimum of six (6) months, taking into consideration the defendant's prior criminal history, recommendations of treatment, and compliance with all rules and regulations of the Misdemeanor Drug Court Division Judge, DRRD and BDSC. Upon successful completion, the Judge shall dismiss the applicable charge(s) or may early terminate probation.

A defendant may no longer be eligible for MDCP for the following reasons: the defendant demands a trial or hearing to determine any legal or factual issues; the Judge determines that the defendant is no longer sufficiently participating in or benefiting from MDCP; or the defendant poses a threat to public safety, or the defendant has been arrested or charged with a subsequent criminal offense or the defendant is capiased for a period more than thirty (30) days. Upon a determination of ineligibility, the case will be transferred back to the original division or disposed of. Upon transfer back to the original division, the defendant's right to a speedy trial, formal discovery, and assertion of legal defenses will be reinstated upon written demand from the date of filing by the defendant.

This Administrative Order does not preclude a regular criminal division judge from sentencing any defendant who desires and is amenable to treatment to attend and complete MDCP under the direction and supervision of the Misdemeanor Drug Court Division Judge.

DONE AND ORDERED at Fort Lauderdale, Broward County, Florida this 27th day of January, 2006.

/s/DALE ROSS
DALE ROSS, Chief Judge

[County Disk #38]