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DEFENDER

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BACDL Website: www.bacdl.org

PHONE: [954-573-4412]

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Judge Gisele Pollack

A woman with a vision for Misdemeanor Drug Court

**She still sees great potential for
Growth and Accomplishment**



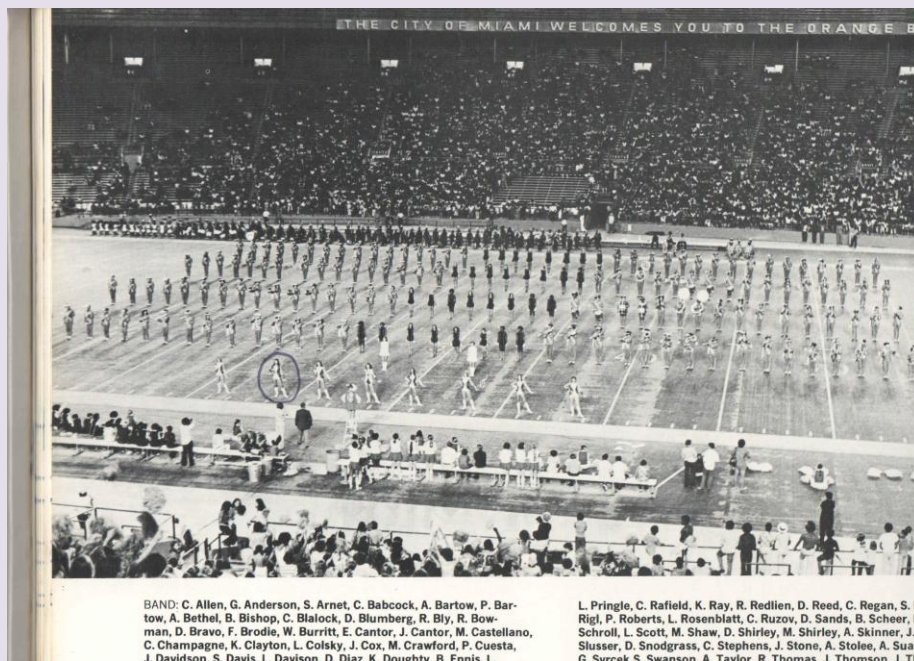
Meet The Honorable Gisele Pollack Broward County Court Judge

Gisele Pollack is homegrown. Born in Miami, she grew up just outside of Coral Gables. Her mother, Renee is from Paris, where she danced at the Moulin Rouge. Renee met Paul Pollack, a U.S. military officer from Patterson, New Jersey during World War II. They fell in love and were married. Their only child is our very own Judge Gisele Pollack. Judge Pollack is most proud of her son Scott. He is the “love of my life.” Scott and her lovely mother Renee make up their family unit.

Paul Pollack practiced criminal law in Miami, and here in Broward he was known as the “**Joe Varon of Miami.**” He represented many people charged with drug trafficking. Most people never knew that he was also known as the “OTHER” Public Defender’s Office in Miami. From the 1960’s on, he took each case, accepting payments of “whatever they could afford.” Whether they paid, or how much they paid, made no difference; he represented each person to the fullest extent of the law.

He was the peoples’ lawyer. He had a big heart for those in need, and who appeared to be unfairly targeted. He was named one of Miami’s best Criminal Defense Lawyers by the *Tropic Magazine* along with Roy Black, Gerald Kogan, Joel Hirschhorn and several other great lawyers of that era.

Judge Pollack graduated from Coral Gables High School. She was a majorette and marched in a red and white sequined uniform with high boots at all high school football games; as well as pre-game programs at the Orange Bowl, and the Orange Bowl Parade on New Year’s Eve.



She was a Key Club “sweetheart” back in the day when Key Club was an all male organization. Jeff Rosinek [future Judge of the Miami-Dade Drug Court] was the “Kiwanis International Sponsor of the Key Club.” Judge Rosinek had a positive influence on Judge Pollack’s desire to become a member of the judiciary and a drug court judge.

Judge Pollack’s yearbook quote was a predictor of things to come. “You have to accept whatever comes and the only important thing is that you meet it with courage and with the best you have to give.” The quote is from Eleanor Roosevelt and it is illustrative of Judge Pollack’s life. She was named a “Senior of

Distinction” during her high school days and has certainly become a woman of distinction since those days.



Growing up in Miami, Judge Pollack’s best friend was a German Shepherd. His name was “Buffalo Bill” and he was trained by her as a show dog. She called him “Buffy.” Judge Pollack was an avid water-skiier. When the family moved to a home on the water, she took her boat out every day until the movie “Jaws” hit the big screen. That movie caused her to turn to the fresh water ski team at the University of Miami.

She graduated from the University of Miami summa cum laude with a 4.2 GPA, earning a B.A. in History with a minor in Middle Eastern History and Psychology in just three years. Judge Pollack is multi-lingual, speaking French, Spanish, and some Hebrew. She subsequently co-authored a book with her history teacher, Professor Handler. The book focused on the life of Theodore Hertzel, one of the founders of the **Zionist Movement** that eventually led to the formation of the State of Israel. She has been to Israel three times and is fascinated by the culture there.

Judge Pollack immediately went to law school at the University of Miami, where she earned her J.D. in 1981. She interned with the Public Defender’s Office in Miami. When she became a member of the Florida Bar, she recognized the dangers of alcohol. She confronted the issue and sought treatment. She practiced both criminal and civil law in New Jersey for a short time. She ultimately decided to return to the warmth of South Florida.

She worked for her father’s law firm until she decided to come to Broward, where she worked for Al Schreiber at the Broward Public Defender’s Office. During her tenure there, she again encountered the challenge of alcohol. Once back on the road of recovery, she came back to work at the Broward PD’s Office. Judge Pollack’s passion for her work in drug court comes from her desire to help others “pick themselves up.” Now her daily life “consists of prayer, meditation and being of service to others.”

She served in the felony drug court for ten years. During that time, she served as a member of the Board of Directors of BACDL. But, her desire to help others and to establish a Misdemeanor Drug Court led her to running for judge. Her quest was met by opposition from another candidate. Working tirelessly to achieve her goal, her dream was realized when she was elected to the County Court in 2004. She established the Misdemeanor Marijuana Drug Court on September 9, 2005. It was the first such court in the entire country.

But that wasn’t the end of Judge Pollack’s vision. She and her close friend, 4th DCA Judge Melanie May, worked to establish a veteran’s court in Broward. Their vision came to fruition when Chief Judge Peter Weinstein garnered the support to make the veteran’s drug court a reality.

Judge Pollack tries hard to balance her professional life with outside activities. She loves beading and knitting. She makes necklaces, bracelets, and clothes in her spare time. She muses: "It keeps me out of trouble."

Judge Pollack serves as a member of the Board of Governors for the United Way of Broward County Commission on Substance Abuse [UWBCCSA]. She also serves on the Advisory Board of Susan B. Anthony, a residential treatment program for women and their children. She is a member of the National Association of Drug Court Professionals; and the Florida Association of Drug Court Professionals (FADCP). Judge Pollack served as chair of the FADCP for two years. She is a faculty member for the Justice Management Institute, and the National Drug Court Institute and the Conference of County Court Judges. She works with many other community organizations.

She has received numerous awards. She was inducted into the Broward County Women's Hall of Fame in 2009.



Editor's Column

by Ira Still, Esq.

This article is based upon an interview with Judge Gisele Pollack that took place on August 5, 2013

Q. There has been some new activity inside the Misdemeanor Drug Court. Can you explain what is new or on the horizon?

A. Yes. In the past, misdemeanor marijuana cases [possession of 20 grams or less] were filed by the officer who served the Notice to Appear. Those cases could go to one of the three Regional Courthouses or they could be filed in the Central Courthouse. Those cases were assigned to Division Judges. They typically ended in a plea although some of the cases were litigated during the pre-trial phase and may be set for jury trial. Statistics for 2013 show that the **North Court** handled **476 cases**, the **South Court** handled **530 cases**, the **West Court** handled **188 cases**, and the **Central Court** handled **1962 cases**. In addition **Central** handled **1050 cases** on other misdemeanor controlled substances. The new procedure called for ALL misdemeanor drug cases to be initially filed in the Misdemeanor Drug Court. The arraignment would take place at Central; every defendant would be given an opportunity to enter the Misdemeanor Drug Court Program. Successful completion of that program would lead to the defendant getting their case charges dismissed. In addition to that BSO conducted a study indicating that the recidivism rate (for offenders who complete MM Drug Court) is only 5%. We have asked Nova Southeastern to validate those figures independently, but that is an incredibly low recidivism rate. It indicates that our program is very, very successful.

Q. Suppose that the police violated *Miranda* or there are real issues of lack of probable cause or violation of search and seizure provisions of the 4th Amendment. Would those Constitutional rights issues have to be waived in order to go through MM Drug Court?

A. No defendant will have his/her legal rights violated by simply offering the alternative MM Drug Court alternative. It just means their case will originate in Drug Court. If a particular defendant wants to litigate the case, they are certainly welcome to do so by **opting out of MM Drug Court**. If they opt out, their case will be re-assigned to the Division Judge for pre-trial preparation, plea or trial. They will **not** lose their rights. If, later on down the road, the defendant reconsiders MM Drug Court, they can always opt back in. Actually, I do not care how many times they opt in and back out. We will accommodate whatever procedure they wish to pursue. MM Drug Court is for those people who need help and they know that they need help. We are here to facilitate help and rehabilitation. We are not going to violate anyone's rights!

Q. How does the proposed new procedure of setting Arraignments of all MM Drug Charges directly into MM Drug Court compare to Felony Drug Court procedures?

A. Felony Drug Court already operates on the same basis as the proposed changes to MM Drug Court. Anyone charged with a felony drug charge will automatically be arraigned in Felony Drug Court. They can opt out back to the division judge for litigation of pretrial motions and for plea or trial. If they select to remain and go through the Drug Court Program they will be focused on treatment versus litigation. The choice is made by each defendant. So the MM Drug Court proposal is just to get in line with the already existing Felony Drug Court procedure.

Q. What are the stated purposes of Drug Courts?

A. Drug Courts: (1) enhance public safety by reducing crime; (2) save children and reunite families; (3) ensure completion of substance abuse treatment; (4) reduce drug use; (5) increase employment and school enrollment; (6) save lives and restore communities; and (7) save taxpayer dollars because they cost less than incarceration. The program's successful completion rate is **84%** while the recidivism rate is only **5%**. Upon successful completion of the drug court program, the Court dismisses the eligible criminal charges, pursuant to section 948.16, Fla. Stat.

Q. Can you tell us precisely what types of cases are assigned to the MM Drug Court program?

A. Yes. Actually eligibility is defined by section 948.16, Fla. Stat. as persons charged with:

- Misdemeanor possession of cannabis;
- Possession of drug paraphernalia;
- Possession of alcohol under 21;
- Prostitution;
- Misdemeanor possession of certain controlled substances without a valid prescription; and
- Nonviolent, non-traffic related misdemeanors where the individual charged has a substance abuse problem

The Broward County MM Drug Court Program is governed by Administrative Order 2010-38-CO signed by the Chief Judge of the 17th Judicial Circuit. The Court is specifically designed to reduce recidivism and substance abuse among non-violent offenders and to increase the offender's likelihood of successful habilitation through early, continuous and judicially supervised treatment, education and mandatory periodic random drug testing.

Q. Are the newly proposed changes specifically geared to misdemeanor Marijuana charges?

Yes it is. The idea is to establish a marijuana court where every person arrested on misdemeanor pot possession charges would be funneled through drug court and initially offered treatment. If a person decides to stay in MM Drug Court and goes through 6 months of testing and treatment successfully staying "clean" their criminal charges would be dismissed and their record could remain "clean" as well. The punishment of up to 364 days Broward County Jail, \$1,000 fine and loss of driving privileges for 2 years would not be a factor. We offer them a chance to change their lives for the positive.

Q. Is the MM Drug Court Program run solely by you or is it subject to some type of community partnership?

A. It is run through a community partnership composed of the following:

- The Judges and Court Administration of the 17th Judicial Circuit
- Presiding Judge Gisele Pollack [which is where I come in]
- The Broward County Sheriff's Office
- The Broward County State Attorney's Office

- The Broward County Public Defender's Office
- Justice for Life [under the directorship of Dr. Guy Wheeler]
- Florida Department of Children and Families
- The Broward County Commission
- The Broward County Clerk of Courts
- Licensed Substance Abuse Treatment Professionals
- United Way's Broward County Commission on Substance Abuse
- Nova Southeastern University
- Florida Atlantic University

All partners work together to create a balance of authority, supervision, support and encouragement for each participant. We would be more than happy to have BACDL seated at the table for partnership decisions. As you know, I was an active Director of BACDL for quite some time before I became a Judge and could no longer serve in that capacity.

Q. There has been some talk going around that the changes proposed to the Marijuana Court were precipitated by studies of racial disparity in the number of arrests made in Broward County. Is there any truth to that?

A. Yes. I was prompted to do something when I read the ACLU reported 2010 studies concerning African-Americans in **Broward County, Florida**. Nearly 60% of the 6,061 arrestees in Broward were Black. The typical defendant is a young Black male, 18-25 years old caught with a joint or two. There may be accompanying charges like prostitution or petit theft. These charges can go through drug court as well if they are tied to a substance abuse problem. The law changed in the last Legislative session to permit people with prior marijuana charges to still go through MM Drug Court. This is all very cutting edge and a new direction for the Courts to go in to. Marijuana Court, if widely used in Broward, could tend toward de facto decriminalization of possession. We are trying to affect the 18-25 generation. These young people are not "criminals." They just need a lifestyle change. With this new court perspective, the opportunity will be there. We can change the face of Broward for the better for our young people of all races.

Q. The alternative to going through MM Drug Court, or at least having a case start there, would be to stay in the Division and likely end with a withheld adjudication and payment of court costs. What are some of the consequences for a person who never gets the opportunity to go through MM Drug Court?

A. They might not be able to go into the Armed Services. They cannot get a lease or college scholarship and there are a myriad of other things that might be taken away because of the non-Drug Court withheld adjudication. Of course, if their constitutional rights were violated by the arrest or illegal search, they should be given every opportunity to test those rights in the Division Court before making a final decision on MM Drug Court. That is why I permit defendants to opt in and opt out and even back in again. If treatment is right for them, they must be given every opportunity to get it.

Q. To change the subject slightly, what is your core philosophy on being a Judge?

A. First and foremost, "Don't take things personally." Second, "Never cave in to the weight of your ego." And third..."Be prepared. I not only preside over MM Drug Court. I also preside over the Juvenile Drug Court because offenders are starting as early as 11 to 12 years old. I sit in Juvenile as a Circuit Court Judge. I am disappointed to see the low caliber of practice of a good number of lawyers. That is certainly not the majority of lawyers but a disturbingly high percentage. I hope that BACDL will continue its luncheon CLE seminars. That will help lawyers improve their skills and performance.



Letters to the Editor

Please get involved as a member of BACDL and submit your Letters-to-the-Editor for inclusion into the next issue of the Newsletter. Send them to the Editor at the following email address:

ira@istilldefendliberty.com

Or mail to : Ira Still, Esq.
148 SW 97th Terrace
Coral Springs, FL 33071