

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT**

**IN AND FOR HARDEE, HIGHLANDS, AND POLK COUNTIES**

ADMINISTRATIVE ORDER NO. 2-30.2

**POLK COUNTY TREATMENT-BASED DRUG COURT PROGRAM**

**WHEREAS**, Chapter 397.334, Florida Statutes, establishes within the State of Florida "treatment-based drug courts"; and,

**WHEREAS**, the Polk County Drug Court provides licensed substance abuse education, prevention, intervention, and treatment services in the Tenth Judicial Circuit in accordance with Chapter 397, Florida Statutes; and,

**WHEREAS**, Chapter 397, Florida Statutes, in its entirety, establishes the provision of substance abuse services within the State of Florida, it is, therefore,

**ORDERED AS FOLLOWS:**

When any Defendant is arrested for or charged with a felony of the second or third degree, or a misdemeanor of the first degree, for purchase or possession of a controlled substance under Chapter 893, Florida Statutes, the State Attorney's Office will review the Defendant's case to determine if the Defendant meets the statutory criteria for admission into the Drug Court's substance abuse intervention and treatment program. If the Defendant meets the criteria for admission, or if the State Attorney believes that it is otherwise appropriate, the State Attorney shall forward the Defendant's name to the Polk County Drug Court for purposes of determining provisional eligibility and acceptance into the Polk County Drug Court.

Upon receipt of the Defendant's name, the Polk County Drug Court shall conduct a screening interview with the Defendant and notify the Defendant's attorney of record, if there is one, of the interview. 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 Drug Court shall notify the State Attorney's Office, which will then be free to proceed with prosecution of the Defendant.

If the Defendant does wish to participate in the program, the Polk County Drug Court shall prepare a "Polk County Drug Court Contract and Deferred Prosecution Agreement". The contract shall stipulate that the program will last for no less than eighteen (18) months for felony defendants and no less than 6 months for misdemeanor defendants. This document shall also stipulate the conditions of the Defendant's enrollment in the Polk County Drug Court in order to receive substance abuse education, intervention, and treatment services.

Once the Defendant has agreed to participate in the Polk County Drug Court treatment program and has executed the "Polk County Drug Court Contract and Deferred Prosecution Agreement" acknowledging such agreement, the Drug Court shall send the signed Contract to the State Attorney for approval. The State Attorney shall then send written notification to the Clerk of the Court who shall then remove the Defendant's case from the Court's docket. Upon admission and acceptance of the Defendant in the Polk County Drug Court, the Drug Court shall forward to the State Attorney's Office for approval an "Agreement, Orientation, and Rules" that has been signed by the Defendant and which stipulates the terms and conditions associated with the client's participation in the Program.

During the period of the Defendant's participation in the Polk County Drug Court program, the Drug Court shall monitor the Defendant's compliance with the terms and conditions of the "Polk County Drug Court Contract and Deferred Prosecution Agreement". The Polk County Drug Court shall monitor the progress of the client in treatment, and the client's degree of compliance with the rules and regulations of the Polk County Drug Court program, as stipulated in the "Agreement, Orientation, and Rules".

In the event that the Defendant violates a condition of the or the conditions of the "Polk County Drug Court Contract and Deferred Prosecution Agreement", or the conditions of the Defendant's substance abuse treatment with the Polk County Drug Court as stipulated in the "Agreement, Orientation, and Rules", the alleged violation shall be treated as an alleged violation of the terms and conditions of treatment. The Drug Court shall notify the Drug Court judge, along with the other party, of the alleged violations, and have the matter set for hearing. When a hearing is set, a "Notice of Hearing" shall be given by the party initiating the action to the State Attorney, the Defendant, and the Defendant's attorney-of-record, if any.

At the hearing, on being satisfied that the Defendant committed the violation(s) alleged by the Polk County Drug Court, the Court, at its discretion may take one or more of the following actions:

- a. Restore the Defendant to the Drug Court program;
- b. Extend the Defendant's participation in the Drug Court program;

- c. Impose a special condition of inpatient or residential substance abuse treatment;
- d. Impose additional appropriate special treatment or supervision conditions;
- e. Order the Defendant, as a therapeutic consequence, to county jail for a specified period of time;
- f. Remove the Defendant from the Drug Court program, and refer the Defendant's case to the State Attorney for prosecution.

Any sanctions which are imposed on the client shall be considered to be "therapeutic consequences" since the client has violated the terms and conditions of treatment.

At the end of the eighteen (18) month period for felony defendants or the six (6) month period for misdemeanor defendants, or after any extension so ordered by the Court, the Drug Court shall report to the assigned judge the degree to which the Defendant has successfully completed the substance abuse intervention and treatment program. The Court shall then set the matter for a hearing, and notice shall be given by the Drug Court to the State Attorney, the Defendant, and the Defendant's attorney-of-record, if any.

At a hearing set by the assigned Judge, the court shall make findings regarding the Defendant's successful completion of the Program and dismissing the charge(s). If the Defendant has not successfully completed the program, the Court, at its discretion, may take one or more of the following actions:

- g. Restore the Defendant to the Drug Court program;
- h. Extend the Defendant's participation in the Drug Court program;
- i. Impose a special condition of inpatient or residential substance abuse treatment;
- j. Impose additional appropriate special treatment or supervision conditions;
- k. Order the Defendant, as a therapeutic consequence, to county jail for a specified period of time;  
or,
- l. Remove the Defendant from the Drug Court program, and refer the Defendant's case to the State Attorney for prosecution.

Administrative Order No. 2-30.1, entered December 12, 2002, is hereby VACATED.

**DONE** on this 2nd day of September, 2004

RONALDA. HERRING

Chief Judge