

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT

IN AND FOR POLK COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2-67.1

IN RE: PROCEDURES FOR DETAINING

OUT OF STATE V.O.P. PROBATIONERS AND

PAROLEES UNDER THE INTERSTATE COMPACT

WHEREAS, the Court has determined that in some cases Out-of-State Probationers and Parolees are being detained in the Polk County Jail in violation of the Interstate Commission for Adult Offender Supervision (I.C.A.O.S. or Interstate Compact), and

WHEREAS, the Court has determined that the way to resolve this problem is by adopting a uniform procedure for the handling of these types of cases, it is accordingly

ORDERED that the following shall be the procedures used in the handling of cases involving Out-of-State Probationers:

1. Whenever a Defendant is booked into the County Jail either by Warrant or Warrantless Arrest on a Violation of Probation or Parole Violation and is a transfer from out of state, they shall be entitled to a First Appearance Hearing. Pursuant to the I.C.A.O.S. (Interstate Compact) Rule 5.111, they are not entitled to any bond. The First Appearance Judge shall determine if there is probable cause for the violation of probation. If no probable cause is found, the Defendant shall be released. If probable cause is found and if the Defendant is charged with a new criminal felony or misdemeanor charge, the Defendant shall not be released to the sending state until the charges are dismissed, the Defendant is placed on probation or with consent of the State Attorney. If probable cause is found and if the Defendant has no pending charges, then the Defendant shall be released to the sending state regardless of any status hearings, etc. If there is any question by any agency, they should contact the VOP Judge or the Duty Judge to immediately resolve the issue.

The Clerk, at First Appearance, shall set a Status Hearing twenty-one (21) calendar days or as close thereto as possible before the VOP Judge (Monday through Friday at 1:30 p.m.)

3. The VOP Judge shall continue to monitor the status of any Defendant until the Defendant is retaken by the sending state or released. Upon the resolution of any pending charges, the Sheriff's Office Warrants Division shall notify the Department of Corrections and the sending state shall have thirty (30) calendar days to pick up the Defendant from the date the local charges were disposed of or Defendant was released from incarceration on local charges.

The Department of Corrections shall immediately notify the VOP Judge of the sending state's decision to retake or not to retake the Defendant in writing, delivered either by hand, fax, or email to that judge's judicial assistant clearly showing the date of the sending state's decision. If the sending state has issued a warrant for the Defendant, that shall be prima facie evidence of the sending state's decision to retake.

5. If the Defendant is arrested on the sending state's warrant and the sending state does not retake the defendant within thirty (30) calendar days, the Defendant shall be released and not rearrested on that warrant. However, the Defendant shall be ordered by the VOP Judge to return to the sending state and the Court of appropriate jurisdiction within thirty (30) calendar days. His/her failure to do so will result in contempt of court and constitute a new violation of probation or parole for which a new warrant will be issued and the Defendant shall be taken into custody and the sending state renotified.

Administrative Order No. 2-67.0 is hereby VACATED. This Order shall become effective upon entry.

DONE AND ORDERED on this 4th day of October 2005.

RONALD A. HERRING

Chief Judge