

ADMINISTRATIVE ORDER
NO. 07-99-24-07

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR OSCEOLA COUNTY, FLORIDA

AMENDED ADMINISTRATIVE ORDER GOVERNING
COLLECTION COURT, OSCEOLA COUNTY

WHEREAS, the assessment and provision for payment of fines and costs directly impacts the uniform and equitable treatment of offenders as well as directly impacting limited local resources to defray the costs of prosecution and public defense and the maintenance and operation of the various courts within the Ninth Judicial Circuit of Florida; and

WHEREAS, pursuant to section 938.30, Florida Statutes, enacting the Comprehensive Court Enforcement Act, procedures are necessary to improve the assessment and collection of fines and costs in criminal cases; and

WHEREAS, the legislature of the State of Florida has imposed certain statutorily mandated costs in every criminal case; and

WHEREAS, pursuant to section 28.246(6), Florida Statutes, procedures are necessary to improve the assessment and collection of fines and costs in civil infraction cases; and

WHEREAS, the public perception that the courts and judicial system are providing equitable, equal and uniform treatment to all who come before the courts is preserved if all offenders with similar offenses are treated similarly;

NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215 hereby order that a Collection Court Program, hereinafter referred to as

“Program,” was first implemented in Osceola County on August 2, 1999, for the collection of fines, costs in felony and misdemeanor cases, public defender liens, court appointed attorney liens, restitution, county ordinance infractions, municipal ordinance infractions, civil traffic infractions, and parking fines, all of which are hereinafter collectively referred to as “fines and costs” as follows:

I. Placement under Program:

When fines and costs are imposed at sentencing or reimposed pursuant to a modification or termination of probation, the trial judge may also order any defendant, who does not or cannot pay the fines and court costs in full at sentencing or at a date certain not to exceed 120 days, to comply with the terms of the Program.

When sentencing defendants to probation or community service the trial judge may order the defendants to comply with the Program for payment of fines and costs.

In cases in which defendants are sentenced and incarcerated to the Florida Department of Corrections, upon their release from state custody they may be included in the Program. However, the judge may also reduce all fines and costs to a final judgment and thus, these defendants shall not be included in the Program.

II. Notice Form:

At sentencing the trial clerk shall prepare and furnish each defendant who is ordered to comply with the Program a form entitled “Notice of Fines and Costs, Required Status Hearings, and Order Requiring Defendants Personal Appearance at Collections Court (hereinafter referred to as “Notice”). The original Notice shall be signed by the defendant and the trial judge, and then placed in the court file. A copy of the Notice shall be furnished to the defendant. The

Notice shall advise the defendant of the following:

1. The total amount due;
2. The amount of the monthly payments;
3. Where payments are to be made;
4. The date payment is to be made each month until paid in full. This date shall be from the 1st of the month until the 15th of the month.
5. That the defendant shall be assessed an administrative fee payable to the Clerk of Court in the amount of \$5.00 per month for inclusion in the Program.
6. That each time the defendant fails to make a scheduled payment on the date specified, an additional administrative fee of \$10.00 payable to the Clerk of Court shall be assessed against the defendant for the costs incurred under the Program. This administrative fee when collected shall be disbursed by the Clerk of Court as follows: \$5.00 to the Clerk of Court and \$5.00 to the Board of County Commissioners for Osceola County on behalf of Court Administration.
7. That each time a defendant fails to appear for a required Collection Court status hearing, and a Writ of Bodily Attachment is issued, an additional administrative fee of \$20.00 shall be assessed against the defendant for the costs incurred under the Program. This administrative fee when collected shall be disbursed by the Clerk of

Court as follows: \$5.00 to the Clerk of Court; \$15.00 to the Board of County Commissioners for Osceola County with \$5.00 on behalf of Court Administration and \$10.00 on behalf of the Osceola County Sheriff's Office.

III. Clerk of Court's Revenue Collection Office:

The Clerk of Court staff shall monitor the defendant's compliance with the ordered payment schedule. The Clerk of Court staff may attempt to collect the fines and costs using any reasonable and customary means available. The Clerk of Court staff shall have the authority to modify the payment schedule, but shall not have the authority to relieve the defendant of the responsibility to pay the full amount of fines and costs. If a defendant makes the monthly payments as required under the Program the defendant will not be required to appear at a Collections Court status hearing.

IV. Collections Court Status Hearings:

If a defendant fails to timely make a monthly payment and does not comply with the Court's and Clerk's collection efforts, the defendant must appear at the next scheduled Collections Court status hearing to show legal cause for failure to comply with the payment order.

Judges or hearing officers shall preside over the Collections Court status hearings. If a hearing officer presides, a judge's signature must also be obtained on any judgments or orders recommended by the hearing officer. For each Collections Court status hearing, Clerk staff shall prepare a docket listing each defendant who has failed to make a required payment; the

amount of the monthly payment; and the total amount owed. Clerks and court deputies shall be assigned to assist at each status hearing.

V. Writs of Bodily Attachment:

If a defendant is not current with the required payments and does not appear at the scheduled Collections Court status hearing, the Judge may order a Writ of Bodily Attachment for the defendant's arrest and delivery to the Osceola County Jail. The Clerk shall prepare and issue a Writ of Bodily Attachment, which shall contain a purge amount, not to exceed \$250.00 or the total balance owed, whichever is less, and shall forward it to the Osceola County Sheriff's Office. The Clerk shall retain a copy of the Writ of Bodily Attachment in the court file. Upon receipt of a Writ of Bodily Attachment under this Program, the Osceola County Sheriff's Office shall send the defendant a postcard or letter stating that a Writ has been issued for the defendant's arrest and that, in order to avoid arrest, the defendant must pay the stated purge amount. Prior to the execution of the Writ, the Clerk of Court shall have the authority through the Collections Court Program to recall the Writ. Defendants who pay the purge amount on the Writ of Bodily Attachment, but who have a remaining balance of fines and court costs must continue to comply with the Program.

In addition to the remaining fines and court costs owed and any fees imposed pursuant to this Order, an administrative fee of \$70.00 shall be assessed upon execution of a Writ of Bodily Attachment for the costs incurred by the Osceola County Sheriff's Office. This administrative fee shall be assessed if the defendant is physically arrested pursuant to the Writ of Bodily Attachment. An additional administrative fee of \$140.00 shall be assessed for the costs incurred by the Osceola County Corrections Department when the defendant is booked and held in the

Osceola County Jail. These administrative fees when collected shall be disbursed by the Clerk of Court as follows: \$70.00 to the Board of County Commissioners for Osceola County on behalf of the Osceola County Sheriff's Office; and \$140.00 to the Board of County Commissioners for Osceola County on behalf of the Osceola County Corrections Department.

Defendants held in custody who are unable or unwilling to pay the purge amount required by the Writ of Bodily Attachment shall be brought before a Judge on the first business day following arrest to address their non-compliance with the Program. Hearing for this purpose shall be held before the Chief Judge, or designee, Monday through Friday (normal work days), at 1:30 p.m., or as soon thereafter as possible. In the event defendant is arrested on a weekend or a holiday, defendant will be brought before the court pursuant to Administrative Order 2003-39-11, as amended, relating to first appearance hearings. At these hearings, the Judge may reduce the fines and court costs owed to judgment and the Judge may determine whether defendant must continue to comply with the Program. The Judge may also give defendant an appearance date to come before a collection court hearing officer within 30 days.

VI. Other Legal Remedies for Collection:

This Administrative Order shall not bar the Clerk of Court from taking other legal action in any case to collect fines and costs including suspension of the defendant's driver's license in traffic cases; pursuing a civil action where legal and appropriate; and pursuing other actions that may be or become legal due to statutory changes.

VII. Allocation of Funds Collected:

Subject to the provisions in section 27.52, Florida Statutes, requiring the assessment of the Public Defender application fee against defendants who apply for a public defender or court appointed counsel, any funds collected in this Program shall be allocated equally towards

payment of restitution, if ordered, and the other fines and costs assessed.

VIII. Assessment and Collection of the Application Fee pursuant to section 27.52, Florida Statutes:

In cases where the Public Defender application fee is assessed pursuant to section 27.52, Florida Statutes, and such cases subsequently result in a disposition other than a plea of guilty, no contest or a finding of guilt, the Public Defender application fee will be considered non-collectable and the Clerk of Court staff shall remove said fee from the Accounts Receivable records.

VIV. Effective Date:

This Administrative Order shall become effective immediately. Administrative Order No. 07-99-24-06 is vacated and set aside and all current Administrative Orders and provisions, if any, in conflict with this Order are hereby vacated and set aside.

DONE AND ORDERED at Orlando, Florida, this 15th day of May, 2009.

_____/s/_____
Belvin Perry, Jr.
Chief Judge

Copies to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General Email Distribution List
<http://www.ninthcircuit.org>