

ADMINISTRATIVE ORDER
NO. 07-98-48-03

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

**AMENDED ORDER GOVERNING THE MOVEMENT OF SELECTED
INMATES INTO COMMUNITY CORRECTIONS PROGRAMS,
OSCEOLA COUNTY**

WHEREAS, there is a need to allow the Osceola County Corrections Department to place selected inmates, described below, into certain community corrections programs administered by the Department without seeking further judicial intervention in the case;

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, do hereby order that the following procedures and standards are amended as follows, **effective immediately**, in all matters involving the movement of selected inmates into community corrections programs of the Osceola County Corrections Department:

I. GENERAL PROVISIONS:

Those offenders, who after proper and thorough review, are determined to meet the eligibility requirements listed below and for whom written approval is obtained from the sentencing judge, may be placed in the community corrections programs specified in this Order when space becomes available. Approval must be granted within sixty (60) days from the date of sentence for Home Confinement or Day Reporting unless the jail sentence is a condition of probation, then placement into Home Confinement or Day Reporting may be granted at any time.

Offenders sentenced to the Osceola County Department of Corrections will serve the prescribed sentence at the Osceola County Corrections Facility as a fully incarcerated inmate until such time as there is space available in the Work Release Center Program. If, when sentencing an offender or issuing an arrest warrant based upon an alleged violation of probation,

the judge either “recommends” work release or indicates “no objection” to work release, the offender may immediately be placed at the Work Release Center, without first serving any part of the specified sentence, so long as he or she otherwise meets the criteria below, as determined by the Osceola County Corrections Department.

Osceola County Department of Corrections is hereby authorized to place Work Release participants enrolled in the Osceola County Work Release Program into the Home Confinement Program upon obtaining prior written approval from the sentencing judge(s). Program placement will be solely based upon the criteria established by the Department of Corrections. Any resident given the opportunity to participate in the Home Confinement Program must have a suitable residence, an active unrestricted phone line within said residence, have met the placement criteria established for placement into the Osceola County Work Release Program and agree to the terms and conditions of the Home Confinement Program. Any violation of the Home Confinement Program will result in notification to the sentencing judge and disciplinary action being taken against the participant up to and including possible return to the Osceola County Jail to complete the balance of his/her sentence.

Any judge of the Circuit or County Court may prevent the release of any offender whom the judge feels should not be released into one of the Community Corrections programs described in this Order, by so indicating on the sentencing document.

If the Osceola County Jail finds that an offender does not qualify pursuant to the criteria established in this Order, after being so ordered by the presiding judge, the jail must notify the presiding judge, in writing (including the offender’s prior convictions and case numbers and any other pertinent information), with a detailed explanation of the reasons the offender does not

qualify. The jail shall also copy the administrative judge for that division and the Chief Judge. Said notification may be sent via e-mail, read receipt, with copy to the court file.

NO OFFENDER WILL BE ACCEPTED INTO ANY PROGRAM AS CONTEMPLATED BY THIS ORDER IF THE OSCEOLA COUNTY JAIL FINDS THAT THE OFFENDER DOES NOT QUALIFY PURSUANT TO THE CRITERIA CONTAINED HEREIN.

II. OFFENSE CRITERIA:

A. Offenders may be eligible for Community Corrections programs when sentenced for the following:

1. Misdemeanors
2. Traffic Offenses
3. Second Degree Felonies
4. Third Degree Felonies
5. Battery, only in domestic violence cases in which the victim agrees to the Release.

B. Offenders shall be ineligible for Community Corrections programs when sentenced for the following:

1. Any offense of a violent nature (excluding the Domestic Battery exception listed under A. of this Order);
2. Any offense involving the abuse of children;
3. Any offense involving the use of a firearm, or any type of deadly Weapon in the commission of a crime;

4. Any offense involving a lewd act in the presence of a minor;
5. Any homicide;
6. Any robbery;
7. Any sexual battery;
8. Any trafficking in Controlled Substances;
9. Any Criminal or Civil contempt of Court (excluding civil contempt in child support cases and writs of attachment for Collection Court)
10. Arson

C. Offenders may be eligible for Community Corrections Programs if the prior record satisfies the following requirements:

1. Offender has not been convicted in the last seven (7) years of a felony offense involving violence, the use of a weapon, or any offense involving the abuse of children.
2. Offender has not been convicted of more than two (2) non-violent felony offense in the last three (3) years, excluding the instant offense.
3. Offender has not been designated as a sexual predator pursuant to section 775.21(5), Florida Statutes, or required to register as a sexual offender pursuant to section 943.0435, Florida Statutes.

D. Offenders will be ineligible for placement in Community Corrections programs when the offender has a hold from any other jurisdiction unless the jurisdiction has specified it will not pick up or extradite. Offenders serving a sentence for additional charges which do not meet the program requirements will not be accepted. Inmates with a current protection order (injunction

for protection) will be accepted if they meet all other criteria and the injunction was issued two (2) or more years previously; the current charge is not domestic violence; and there have been no arrests for violation of the injunction within the past two (2) years.

III. HEALTH CRITERIA:

A. Offenders with a serious medical condition, requiring frequent care, will not be eligible for participation in the Community Corrections programs as detailed in this Order.

B. Offenders who are identified as acutely psychotic, severely mentally retarded, currently suicidal, or otherwise unable to cope with the program structure or understand the program conditions, will not be eligible for the Community Corrections programs, as detailed in this Order.

IV. OTHER CRITERIA:

A. Other criteria which may be used as a determining factor of eligibility include:

1. Place and length of residence in the community;
2. Family ties in the community;
3. Employment record;
4. Escape risk;
5. Any such other fact or consideration which may pose a risk to the community;

B. No inmate will be placed in a Community Corrections program without prior written approval from the sentencing judge(s).

V. PROGRAMS INCLUDED:

The programs at Osceola County Corrections Department which may accept offenders

under the terms of this Order include the Work Release Center, Home Confinement and Day Reporting.

VI. DRUG COURT PARTICIPANTS:

Drug Court participants may be placed in the Community Corrections programs specified in this Order without having served any part of a jail sentence.

VII. REVOCATIONS:

Offenders who fail to comply with the conditions of the program in which they have been placed are subject to be returned to the jail to serve the balance of the sentence originally imposed. The Community Corrections Department must hold an administrative hearing, by disinterested parties, to determine whether an offender has violated the conditions of the program prior to returning the offender to jail, but is not required to seek an arrest warrant or capias to return the offender to jail.

VIII. ESCAPE:

In those cases in which the offender cannot be located to return for an administrative hearing, the Community Corrections Department will seek a capias or warrant for the offender's arrest and will report the matter to the appropriate law enforcement agency for criminal prosecution for escape.

Administrative Order 07-98-48-02 is vacated and set aside and has been incorporated and/or amended herein.

DONE AND ORDERED at Orlando, Florida, this 2nd day of April, 2013.

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

Copies provided to:

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Clerk of Courts, Osceola County
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