

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2013-063 PA/PI-CIR

RE: VETERANS TREATMENT COURT

The Florida Legislature has appropriated non-recurring general revenue funds to the Sixth Judicial Circuit for the purpose of creating pretrial felony or misdemeanor veterans' treatment intervention programs in accordance with sections 948.08 and 948.16, Florida Statutes. See Ch. 2013-40, Line Item 3203. In addition, Pinellas County has received a grant from the Substance Abuse and Mental Health Services Administration to establish a Veterans Treatment Court.

In order to create a Veterans Treatment Court docket in Pasco and Pinellas Counties and identify the defendants to be served, and in accordance with Article V, section 2, of the Florida Constitution, Rule of Judicial Administration 2.215, and §43.26, Florida Statutes, it is

ORDERED:

1. The purpose of Veterans Treatment Court, ("VTC"), is to comprehensively address, through collaboration between the court system, treatment providers, and the United States Department of Veterans Affairs, the service-related mental health and substance abuse issues of certain veterans and members of the United States Armed Forces who are charged with criminal offenses. The goal is to reduce recidivism through treatment.

2. The Clerk of the Circuit Court for Pasco County (Pasco Clerk) is directed to create a new docket in sections 30 and 31 of the Criminal Division. The Clerk of the Circuit Court for Pinellas County (Pinellas Clerk) is directed to create a new docket in section N of the Criminal Division. The Clerks shall not assign criminal cases on a random basis to these sections as provided in Local Rule 3, rather cases shall be assigned as further specified in this Administrative Order.

3. The State Attorney's Office (State Attorney) will accept and review applications for VTC. The State Attorney shall identify those applicants who meet the eligibility criteria for either Criteria Set One or for Criteria Set Two. The eligibility criteria are listed in Attachment A. In making the initial determination of eligibility, the State Attorney will consider, among other things, the facts of the case, the input of the victim, the defendant's criminal record, and the defendant's relevant service records. If a defense attorney desires to have a case heard in VTC, he or she must submit an application to the State Attorney. Regardless of eligibility for VTC, the State Attorney will refer all applicants for VTC to the appropriate Veterans Administration Judicial Outreach Coordinator.

4. Cases of eligible defendants may be initially filed in VTC by the State Attorney or may be transferred to VTC from another criminal section upon written notification by the State Attorney to the Administrative Office of the Courts. Cases may be transferred to VTC pre-plea

or post-plea, however, post-plea cases may only be transferred if funds other than those appropriated in Ch. 2013-40, Line Item 3203, are used.

5. While the State Attorney makes the initial determination of eligibility, judicial approval is required to participate in VTC. If the Court decides that a case will not remain on the VTC calendar, the State Attorney and the defense attorney shall be notified. If the case was initially filed in VTC, the applicable Clerk shall transfer the case to another criminal section within the county in accordance with Local Rule 3. If the case was transferred to VTC from another criminal section, the applicable Clerk shall transfer the case back to that section.

6. The Circuit Court Judges assigned to VTC will handle both misdemeanor and felony cases. Pursuant to Administrative Order 2013-060, and subsequent administrative orders, the assigned Circuit Court Judge may proceed as an acting County Court Judge to hear misdemeanor cases in VTC.

7. Participating in VTC is voluntary. At any point, a defendant may elect not to have his or her case heard in VTC. Upon such an election, the applicable Clerk shall transfer the defendant's case to another criminal section within the county in accordance with Local Rule 3, or, if the defendant's case was transferred to VTC from another criminal section, the applicable Clerk shall transfer the case back to that section.

8. By agreeing to have his or her case heard in VTC, the defendant waives the right to a speedy trial. The defendant also agrees that no depositions will be taken, trial dates scheduled, or substantive pre-trial motions heard. If a pre-trial motion must be heard, the case shall be transferred to a regular criminal section.

9. Each defendant only has one opportunity to have his or her case heard in VTC. If a defendant is charged with a new offense and has already had a prior case heard and resolved in VTC, the case cannot be scheduled on the VTC calendar without specific approval from the State Attorney.

10. A defendant who applies or participates in VTC must voluntarily and truthfully provide information to aid VTC at each step of the process. To participate in VTC, the defendant must submit to a mental health and substance abuse assessment. This assessment will evaluate the defendant's mental health and substance abuse issues and the resources needed for proper treatment. The assessment will help determine the defendant's eligibility for VTC and assist the Court in fashioning an appropriate sentence. The mental health and substance abuse assessment must use objective standards and criteria and must be conducted by the Court's licensed contract provider.

11. Prior to submitting to the mental health and substance abuse assessment, the defendant must execute a written consent form with a waiver of confidentiality as outlined in 42 C.F.R §2.31 for records made confidential under 42 U.S.C.S. 290dd-2, Fla. Stat. § 397.501, and Fla. Stat. § 394.4615. If the defendant refuses to execute the written consent or provide any other information necessary for VTC, the defendant's case shall not be filed in or transferred to VTC. To the extent already filed in or transferred to VTC, the applicable Clerk shall transfer the

case to another criminal section within the county in accordance with Local Rule 3 or shall transfer it to the section from which it was transferred, respectively.

12. In Pasco County, no more than 75 persons may be in VTC at any one time. The Administrative Office of the Courts shall notify the State Attorney when VTC does not have the capacity for additional defendants. If there are 75 persons in Pasco County VTC and the State Attorney identifies additional persons who are eligible for VTC, the State Attorney may request that the Chief Judge authorize additional persons for VTC. The Chief Judge may authorize additional persons if resources permit.

13. In Pinellas County, no more than 150 persons may be in VTC at any one time. The Administrative Office of the Courts shall notify the State Attorney when VTC does not have the capacity for additional defendants. If there are 150 persons in Pinellas County VTC and the State Attorney identifies additional persons who are eligible for VTC, the State Attorney may request that the Chief Judge authorize additional persons for VTC. The Chief Judge may authorize additional persons if resources permit.

14. The sanctions imposed in VTC are within the Court's discretion, and include but are not limited to outpatient treatment programs, non-secure residential treatment programs, and intensive, secure, long-term residential treatment programs. Other conditions of probation may be ordered, such as anger management, Batterer's Intervention Program or other domestic violence counseling, random drug testing, a requirement to obtain a G.E.D, or a requirement to participate in transitional housing and related services.

15. The sanctions imposed in VTC for violating probation are within the Court's discretion. The judge may continue probation, may revoke probation and order a new term of probation, may impose a term of incarceration in either the county jail or Department of Corrections, as provided by the Criminal Punishment Code, or impose any other sanction authorized by law.

16. Every defendant participating in VTC must periodically return to court for a judicial review. The purpose of a judicial review is to assess the defendant's level of participation in treatment, monitor the overall success of treatment, and admonish or encourage the defendant in his or her attempt at rehabilitation. Prior to a judicial review, the judge may hold a case staffing with treatment providers, Court staff, probation personnel, the defendant's counsel, assistant state attorneys, and others selected by the judge.

17. Defendants who entered VTC pre-plea and who successfully complete and graduate from VTC may have their charges dismissed. Defendants who entered VTC post-plea and who successfully complete and graduate from VTC may have an adjudication of guilt withheld or receive a reduced probationary period. The VTC judge will review a defendant's successful completion of the assigned treatment and make the ultimate decision of whether a defendant may graduate from VTC.

18. The Administrative Office of the Courts will facilitate the process by which a defendant is assessed; coordinate the procedure by which the written assessment is furnished to the State Attorney, defense counsel, and judge; assist the court in managing its caseload; compile

statistics; maintain the necessary documents to demonstrate compliance with any funding requirements, prepare the cases scheduled on the VTC calendar; schedule initial appointments with treatment providers; and perform other case management functions for the court as required.

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida, this _____ day of October, 2013.

ORIGINAL SIGNED ON OCTOBER 1, 2013
BY J. THOMAS MCGRADY, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Bob Gualtieri, Sheriff, Pinellas County
The Honorable Chris Nocco, Sheriff, Pasco County
The Honorable Paula S. O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskip, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Nikki Alvarez, Chief Operations Office, Pasco County Clerk's Office
Kimberly Collins, Director of Criminal Courts, Pasco County Clerk's Office
Lillian Simon, Director of Administrative Services for Pasco County
Myriam Irizarry, Chief Deputy Director, Pinellas County Clerk's Office
Jarred Miller, Veterans Administration Judicial Outreach Coordinator, Pasco County
Patrick Diggs, Veterans Administration Judicial Outreach Coordinator, Pinellas County
Tracy Toner, Misdemeanor Probation, Pasco
Westcare – Gulfcoast, Inc.
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties

ATTACHMENT A

Eligibility Criteria for Veterans Treatment Court

Criteria Set One

The following criteria apply if funds appropriated in Ch. 2013-40, Line Item 3203 are used to fund the veteran's treatment intervention program:

1. The defendant is a veteran as defined by section 1.01, Florida Statute, or servicemember, as defined by section 250.01, Florida Statute;
2. The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem;
3. The charge or charges are misdemeanors or felonies, other than a felony listed in 948.06(8)(c);
4. The defendant has not entered a plea or been adjudicated on the charge or charges prior to entry into the section that includes VTC; and
5. The defendant has not previously participated in VTC, unless this criterion is specifically waived by the State Attorney's Office.

Criteria Set Two

The following criteria apply if funds other than those appropriated in Ch. 2013-40, Line Item 3203 are used to fund the veteran's treatment intervention program:

1. The defendant has served or is serving in the United States Armed Forces, as defined in 10 U.S.C. §101(a)(4);
2. The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem;
3. The charge or charges are misdemeanors or third-degree felonies; and
4. The defendant has not previously participated in VTC, unless this criterion is specifically waived by the State Attorney's Office.