

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO.:
18-52-B
SUPERSEDES 15-36-B

**IN RE: ADMINISTRATIVE DISPOSITION OF CERTAIN TRAFFIC INFRACTION, NON-
CRIMINAL INFRACTION, MUNICIPAL ORDINANCE, COUNTY ORDINANCE,
CRIMINAL TRAFFIC, MISDEMEANOR, AND FELONY CASES**

WHEREAS, the Department of Highway Safety and Motor Vehicles (DHSMV) notifies the Clerk when certain persons who have been issued traffic citations have died. When the Clerk receives a death certificate or notification from DHSMV, the efficiency of the Clerk would greatly increase by administratively dismissing pending civil traffic citations and non-criminal infractions involving deceased persons; and

WHEREAS, when the Clerk is presented with a death certificate or notification from DHSMV, the efficiency of the Clerk would greatly increase by the Clerk notifying the State Attorney for disposition action on pending criminal cases; and

WHEREAS, when the Clerk is presented with a death certificate or notification from DHSMV, the efficiency of the Clerk would greatly increase by the Clerk administratively recalling any outstanding violation of probation warrant or violation of community control warrant and administratively dismissing the charge if applicable; and

WHEREAS, Rule 6.575, Rules of Traffic Court, provides that for the purpose of record retention, case files with an outstanding or unsatisfied suspension notification (D6) shall be considered disposed of seven (7) years after the submission of the D6 by the clerk to DHSMV. The efficiency of the Clerk would greatly increase by the Clerk disposing of certain criminal traffic suspensions (D6s) in addition to traffic infraction suspensions (D6s) and administratively recalling outstanding bench warrants for those cases which qualify for disposition; and

WHEREAS, pursuant to Rule 3.115, Florida Rules of Criminal Procedure, historically, sworn complaints were filed in the office of the Clerk and delivered to the State Attorney for further proceedings and the Clerk assigned a case number, created an index, and established a pending case. When Clerk has received neither an Information nor a Notice of No Information and more than four years has elapsed since

the filing of certain municipal ordinance, county ordinance, criminal traffic, misdemeanor, and felony sworn complaints, the efficiency of the Clerk would greatly increase by the Clerk disposing of the pending case; and

WHEREAS, the Sheriff of Brevard County is in possession of bench warrants and capias orders and the named defendant has not been located for more than seven years. The efficiency of the Clerk would greatly increase by recalling these capias and warrants and administratively disposing pending charges; and

WHEREAS, the Clerk is actively pursuing placing delinquent court fines with a collection agency and the contingency rate quoted by the selected agency is based on the total outstanding obligations now owed;

IT IS ORDERED:

1. DECEASED PERSONS WITH PENDING CIVIL TRAFFIC CHARGES OR NON-CRIMINAL INFRACTIONS:

When the Clerk receives a death certificate or notification from DHSMV that a person who was issued a civil traffic citation or a non-criminal infraction has died and the charge is pending, the Clerk shall administratively dismiss the citation.

2. DECEASED PERSONS WITH PENDING MUNICIPAL ORDINANCE, COUNTY ORDINANCE, CRIMINAL TRAFFIC, MISDEMEANOR OR FELONY CRIMINAL CHARGES:

When the Clerk receives a death certificate or notification from DHSMV that a person with a pending municipal ordinance, county ordinance, criminal traffic, misdemeanor, or felony criminal charge has died, the Clerk shall notify the State Attorney for disposition action.

3. DECEASED PERSONS WITH OUTSTANDING VIOLATION OF PROBATION WARRANT OR VIOLATION OF COMMUNITY CONTROL WARRANT:

When the Clerk receives a death certificate or notification from DHSMV that a person with an outstanding violation of probation warrant or violation of community control warrant has died, the Clerk shall recall the warrant and administratively dismiss the charge if applicable.

4. DECEASED PERSONS WITH OUTSTANDING MONETARY OBLIGATIONS:

If a charge is administratively dismissed due to the person being deceased, all monetary obligations for that charge shall be suspended from the case.

5. DISMISSAL OF CIVIL TRAFFIC AND CRIMINAL TRAFFIC CHARGES EXCLUDING DUI CHARGES AND FELONY CHARGES:

If more than seven (7) years has elapsed since the submission of a suspension notification (D6) to DHSMV and the suspension remains unsatisfied, the Clerk shall dismiss all pending civil traffic or criminal traffic charges. The clerk shall waive any associated delinquency fees.

6. DISMISSAL OF CIVIL TRAFFIC CHARGES ON FELONY CASES:

On felony cases where a civil traffic charge(s) was attached and where, after seven (7) years, no action has been taken on the civil traffic charge(s), the Clerk shall dismiss the pending civil traffic charge(s). The clerk shall waive any associated delinquency fees.

7. SWORN COMPLAINTS:

If more than four (4) years has elapsed since the filing of a municipal ordinance, county ordinance, criminal traffic, misdemeanor, or felony sworn complaint and the Clerk has received neither an Information nor a Notice of No Information from the State Attorney, the Clerk shall administratively dismiss the case.

8. OUTSTANDING CAPIAS AND BENCH WARRANTS, EXCLUDING DUI CHARGES AND FELONY CHARGES:

If more than seven (7) years has elapsed from the time a capias was issued and the named defendant has not been served, the Clerk shall recall the capias and dismiss the originating charge(s). If more than seven (7) years has elapsed from the issuance of a bench warrant (failure to appear warrant, contempt warrant, noncompliance warrant, violation of pretrial release warrant, and violation of community supervision warrant), the Clerk shall recall the warrant and dismiss all pending charges. Any previous sentence shall remain imposed. The clerk shall waive any associated delinquency fees.

9. COLLECTION:

Other than obligations related to deceased persons, the Clerk may place any outstanding fines, court costs or other monetary obligations owed by the defendant on any case related to this order with a collection agency designated by the Clerk when the statutory delinquency period has expired, regardless of whether there is an outstanding warrant on the case.

10. NOTICE OF NO INFORMATION OR NOTICE OF NOLLE PROSEQUI FOR ALL CASE TYPES (INCLUDING DUI AND FELONY OFFENSES):

If a Notice of No Information or Notice of Nolle Prosequi is filed by the State Attorney's Office and the case has a pending failure to appear or contempt charge and/or an active bench warrant (failure to appear warrant, contempt warrant, noncompliance warrant, violation of pretrial release warrant, and violation of community supervision warrant), the Clerk shall recall the warrant and dismiss the failure to appear or contempt charge that caused the warrant to be issued, unless otherwise directed by the Court. The clerk shall waive any associated delinquency fees.

DONE AND ORDERED this 14th day of November, 2018.

TONYA RAINWATER
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CHIEF JUDGE

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