

IN THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 7.600 (G)

**ALACHUA COUNTY COURT CIVIL DIVISION TRAFFIC COURT
ORGANIZATION AND PROCEDURE**

WHEREAS, the orderly administration of justice requires that attorneys, clerks, defendants, witnesses, personnel of the various law enforcement agencies dealing with the courts, and other persons involved in the processing of civil traffic cases be advised of the organization and procedures of the civil traffic division of the Alachua County Court; and

WHEREAS, the interests of justice and judicial economy would be served best by the issuance of a standing order which sets forth uniform requirements for the resolution of civil traffic infractions in Alachua County; now

THEREFORE, it is hereby

ORDERED that the following organization and procedures are adopted:

1. Divisions. There shall be two civil traffic divisions of the Alachua County Court, which are designated as Divisions IV and V. Civil traffic cases will be assigned in equal numbers to those divisions as they are received by the Clerk's office.

2. Procedures. A defendant charged with a civil traffic infraction *which does not require a mandatory court appearance* may elect one of the following procedures:

A. A defendant may elect to pay a civil traffic fine in accordance with the instructions written on the Uniform Traffic Citation issued by the law enforcement officer, and also may elect to attend a driver improvement school in accordance with section 318.14(9), Florida Statutes. By electing this procedure, the defendant is deemed to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceeding. Or,

B. A defendant may waive his or her right to the civil penalty provisions of section 318.18, Florida Statutes, and elect one of two traffic court proceedings that allow the defendant to appear before a judge:

(1) If the defendant does not contest the commission of the infraction(s), but elects to appear before a judge to request a particular sentence, a plea of guilty or no contest by the defendant shall be entered with the Clerk and the case will be scheduled for the next available general sentencing docket within the assigned division.

(2) If the defendant contests the commission of the infraction(s), the defendant must enter a plea of not guilty and the case will be scheduled for the next available contested hearing docket. Plea forms will be available in the Clerk's Traffic Bureau and on the Clerk's website. The plea forms will explain the difference between evidentiary hearings and sentencing hearings, as described below, and advise defendants of the potential **adverse consequences** of electing to appear on a hearing docket.

The potential **adverse consequences** of electing to appear on a hearing docket are that, if the commission of the infraction is admitted or proved, the court may impose a civil penalty not to exceed \$500, (except that in cases involving unlawful speed in a school zone or involving unlawful speed in a construction zone, the civil penalty may not exceed \$1000), or require attendance at a driver improvement school, or both. § 318.14, Fla. Stat. These penalties will not be imposed as additional penalties when the court appearance is mandatory. In those cases, the penalties are set forth with specificity in section 318.14(5), Florida Statutes.

If the defendant elects to have an evidentiary hearing and then enters a guilty or no contest plea at the hearing, the Court may assess additional court costs to cover any additional costs or expenses that were caused by an untimely decision to enter a guilty or no contest plea, such as the cost of requiring witnesses to appear for the purpose of presenting evidence.

The Clerk will advise defendants of the potential **adverse consequences** of electing to be placed on a hearing docket in the following manner: orally for defendants who make their hearing requests in person or by telephone, and by mail for defendants who mail in their hearing requests without indicating whether they wish to plead guilty, no contest, or not guilty. The Clerk will send the latter defendants plea forms with their hearing notices.

Mandatory civil traffic hearings will be conducted in accordance with the procedures described in paragraph 5, below. Hearings which are not mandatory will be conducted in accordance with the procedures described in paragraphs 3 and 4, below.

3. General Sentencing Docket. The general sentencing docket provides the defendant an opportunity to speak with a judge about an appropriate sentence. A defendant who receives a plea form with his or her hearing notice will have ten (10) days from the date of the notice to return the form and indicate whether he or she wishes to plead guilty, no contest, or not guilty.

Defendants will be placed on the general sentencing docket if: a) they enter a plea of guilty or no contest, or b) they elect a hearing but fail to enter a specific plea. Defendants who have not entered a plea prior to appearing for the general sentencing docket may plead not guilty in court and have their cases transferred to the contested hearing docket.

The Clerk will be responsible for maintaining the docket, pursuant to guidelines set by the judges of the traffic division. At this hearing, the defendant will be given the opportunity to present any mitigation or argument to the court prior to sentencing. These sentencing hearings will be conducted four times monthly, usually on Tuesdays according to the Alachua County Civil Court calendar. Division IV will conduct its general sentencing dockets on the first and third Tuesdays of each month, and Division V will conduct its general sentencing dockets on the second and fourth Tuesdays of each month. Law enforcement officers and other prosecution witnesses will not be required to attend these hearings.

4. Contested Hearing Docket. The contested hearing docket requires an evidentiary hearing to determine whether the defendant committed the traffic infraction. A defendant who has a genuine desire to contest the issue of commission of the infraction may request an evidentiary hearing by entering a not-guilty plea. These contested hearings usually will be conducted on the first two Mondays of the month, according to the Alachua County Civil Court calendar. Division IV will conduct its contested hearings on the second Monday of the second full week of each calendar month, and Division V will conduct its contested hearings on the first Monday of the first full week of each calendar month. Law enforcement officers and any other witness required to give testimony pertaining to this civil infraction will be notified that their attendance is required at the hearing.

5. Mandatory Traffic Hearings. When a defendant is charged with committing a civil traffic infraction which requires a mandatory court appearance, the Clerk will schedule the case on the first available general sentencing docket, and will provide written notice to the

defendant of this court event. If the defendant elects to contest the commission of the infraction(s) at the general sentencing hearing, the case will be scheduled for an evidentiary hearing on the next available contested hearing docket. The written notice from the Clerk will advise the defendant that his or her appearance at the general sentencing docket may be waived by notifying the Clerk no later than five (5) days before that hearing date of his or her intent to enter a not guilty plea and proceed directly to an evidentiary hearing. The Clerk shall then schedule the case for the next available contested hearing docket.

6. Continuances. In each civil traffic case, the Clerk is authorized to grant one continuance each for the defendant and the law enforcement officer(s). Any further continuance requests must be submitted in writing to the assigned judge for approval. Cases in which continuances are granted shall be rescheduled for the next applicable general sentencing docket or contested hearing docket.

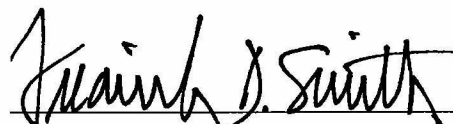
7. Failure to Appear. If a defendant, or his or her attorney, fails to appear at either the general sentencing docket or the contested hearing docket scheduled pursuant to this Administrative Order, the Court shall enter a D6 suspension of the defendant's driver's license, pursuant to section 318.15(1), Florida Statutes.

8. Notice of Appearance. Prior to representing a defendant in a traffic infraction case, the responsible attorney shall file a notice of appearance with the Clerk of Court.

9. Notice. This Administrative Order will be posted on the Alachua County Clerk's web site and on the Eighth Judicial Circuit web site.

10. Effective Date. This Administrative Order shall become effective on 1 July 2008. This order supersedes Administrative Order No. 7.600(F), titled Civil Traffic Infraction Hearing Officer, dated 27 June 2007.

ORDERED on 30 June 2008.


Frederick D. Smith, Chief Judge