Supreme Court of Kentucky

ORDER

Pursuant to KRS 533.250, signed into law in May, 1998, the Pretrial Diversion Program for Class D Felons submitted by the 56th Judicial Circuit (Caldwell, Livingston, Lyon and Trigg Counties) is hereby approved by the Kentucky Supreme Court and added to the Circuit's local rules.

Chief Justice

Entered: April 3, 2000

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COMMONWEALTH OF KENTUCKY
56TH JUDICIAL CIRCUIT

PRE-TRIAL DIVERSION PROGRAM
FOR THE 56TH JUDICIAL CIRCUIT

Pursuant to KRS 533, the following is submitted as a Pre-Trial Diversion Program for felons and misdemeanants convicted in Circuit Court in the 56th Judicial Circuit.

1. Eligibility. Those persons charged and convicted with a Class D Felony, who have not been convicted of a felony under the laws of this state or another state of the United States within ten years of said conviction, or who are either on probation or parole at the time of the commission of the offense for which they stand convicted.

No persons convicted of offenses for which probation, parole or conditional discharge are prohibited shall be eligible. No person shall be eligible for pre-trial diversion more than once in a five year period.

2. Definition. Pre-trial diversion is the postponement of the imposition of sentence upon any person qualified as being eligible for this program, subject to certain conditions, for a time period not to exceed five years subject to those conditions as

established by the Court.

3. Procedure. A person eligible for pre-trial diversion may apply upon conviction to the Court and the Commonwealth Attorney for an order diverting sentence for a period not to exceed five years. Conditions for said pre-trial diversion may also be proposed in this application.

Upon application to the Court and the Commonwealth Attorney for entry to the Pre-Trial Diversion Program, the Commonwealth Attorney shall respond in writing and of record. In his response in writing, the Commonwealth Attorney may object to any pre-trial diversion, agree to the pre-trial diversion and the conditions submitted by Defendant's attorney, or propose additional conditions or modification to the application filed by the Defendant.

Every application for pre-trial diversion shall notice the application for hearing with service upon the Commonwealth Attorney.

After hearing upon application for pre-trial diversion with Defendant, his counsel, and the Commonwealth Attorney all being present, the Court shall approve or disapprove pre-trial diversion either as proposed by the Defendant, the Commonwealth or the Court's own version.

Upon order being entered granting pre-trial diversion, the

conditions shall be set; and the Court may direct that the Defendant be supervised during the pre-trial diversion by the Department of Probation and Parole. A supervision fee of sufficient amount to defray all or part of the diversion program shall be assessed unless waived.

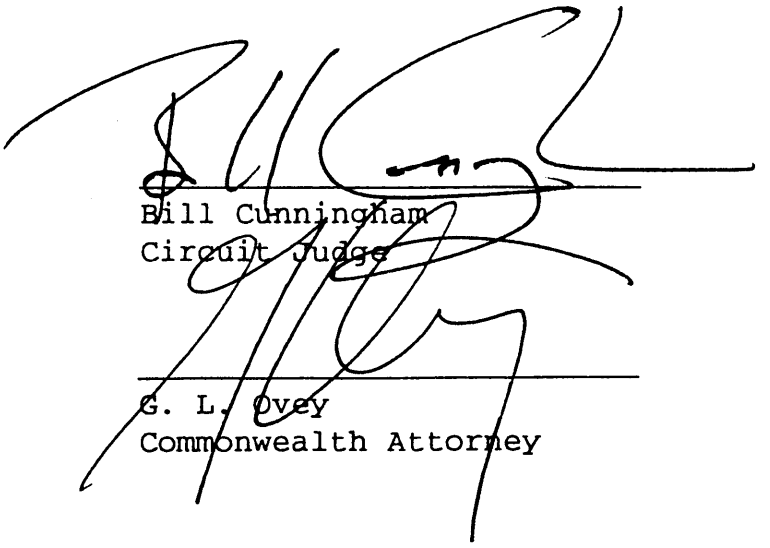
If all conditions of the diversion program are met by the Defendant, at the end of the diversionary period not to exceed five years, the Order and Judgment of Guilty may be set aside and dismissed and shall not constitute a criminal conviction. At any time, the Commonwealth may move for the imposition of sentence based on the grounds that the Defendant has failed to comply with the Pre-Trial Diversion Program.

In making application for pre-trial diversion, counsel for the Defendant shall state, and the Defendant shall agree, to waive any right to speedy trial or disposition of the charge against them.

All conditions which might be imposed as a requirement for probation may also be imposed for pre-trial diversion. Restitution shall be ordered in all cases where a victim has suffered monetary damage as a result of the alleged crime.

All pre-trial diversion impositions shall be in compliance with KRS Chapters 533 and all other pertinent statutes.

SUBMITTED, this 23rd day of March, 2000.



Bill Cunningham
Circuit Judge

G. L. Ovey
Commonwealth Attorney