



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 85-46

IN RE: POLICY STATEMENT REGARDING  
REVOCATION OF PROBATION  
PROCEDURES

UPON THE ISSUANCE OF A WARRANT by the Court, such warrant shall immediately be turned over to the U. S. Marshals' Office to expedite the arrest of a probationer as pertains to an alleged violation of probation. The Court, in its discretion, may issue a summons as opposed to a warrant for the arrest of a probationer.

UPON THE ARREST OF A PROBATIONER, the U. S. Marshals' Service shall take the person without unnecessary delay before the nearest available federal magistrate for purposes of an initial appearance.

AT THE INITIAL APPEARANCE, the probationer shall be advised of the charges against him. In addition, the Magistrate shall set bail pursuant to the provisions of the Bail Reform Act of 1984, Chapter 207 of Title 18, United States Code. Thereafter, the probationer shall appear before the district court Judge for a revocation hearing.

IF THE MAGISTRATE determines that the probationer must be held without bail due to the nature of the alleged violations of probation, a probable cause hearing may be held before the Magistrate. The probationer shall retain the right to waive the probable cause hearing and request

to appear before the District Court Judge for the revocation hearing. Such a waiver shall not constitute an admission of violation of probation. In any instance in which the probationer is released by the Magistrate with or without bail, a probable cause hearing need not be held.

AT THE PROBABLE CAUSE HEARING, the probationer shall be given:

- a. Notice of the probable cause hearing and its purpose, and of the alleged violation of probation;
- b. An opportunity to appear at the hearing and present evidence in his own behalf;
- c. Upon request, the opportunity to question witnesses against him unless, for good cause, the federal Magistrate decides that justice does not require the appearance of the witnesses; and
- d. Notice of his right to be represented by counsel.

IF PROBABLE CAUSE IS FOUND TO EXIST, the probationer shall be held for a revocation hearing before the District Court Judge. The probationer may be released pursuant to Rule 46(c) pending the revocation hearing. If the Magistrate finds that no probable cause exists, the proceeding shall be dismissed.

THEREAFTER A REVOCATION HEARING shall be conducted in front of the Judge having original jurisdiction over the

matter, unless the probationer waives the hearing and admits to the violation of probation.

At the revocation hearing, the probationer shall be given:

- a. Written notice of the alleged violation of probation;
- b. Disclosure of the evidence against him;
- c. An opportunity to appear and to present evidence in his own behalf;
- d. The opportunity to question witnesses against him, and
- e. Notice of his right to be represented by counsel.

ALL PROCEDURES MANDATED throughout this process shall be consistent with Federal Rules of Criminal Procedures 32.1(a)(1) and (2) and Federal Rules of Evidence 1101(d)(3) of Title 18.

DONE AND ORDERED at the United States Courthouse, Federal Courthouse Square, Miami, Florida, this 2<sup>nd</sup> day of December, 1985. *per J.L.K. / JPH*

FOR THE COURT

*James Lawrence King*  
HONORABLE JAMES LAWRENCE KING  
CHIEF U. S. DISTRICT JUDGE  
SOUTHERN DISTRICT OF FLORIDA

cc: All Southern District Judges  
All U. S. Magistrates  
Clerk of Court  
Court Executive