

IN THE CONNEAUT MUNICIPAL COURT
ASHTABULA COUNTY, OHIO

<i>IN RE:</i>	)	Case No. 20 MIS 18
)	
CONNEAUT MUNICIPAL COURT)	
FIRST-TIME OFFENDER PROGRAM	)	<u>ADMINISTRATIVE</u>
	)	<u>JUDGMENT ENTRY</u>
)	

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the First-Time Offender Program is hereby approved and adopted as a program to be administered in the Conneaut Municipal Court consistent with the procedures set forth herein.

IT IS SO ORDERED.

Date: October 13, 2020

Nicholas A. Iarocci

Nicholas A. Iarocci, Judge
Conneaut Municipal Court

**CONNEAUT MUNICIPAL COURT
FIRST-TIME OFFENDER PROGRAM
(Section 2935.36 O.R.C.)**

OVERVIEW

Pursuant to the Ohio Supreme Court Rules of Superintendence for Municipal Courts, Rule 18 and in accordance with Section 2935.36 of the Ohio Revised Code, the Conneaut Municipal Court herein establishes a Pre-Trial Diversion Program for adult offenders, which shall be referred to as the First-Time Offender Program (hereinafter “FOP”). The FOP is an alternative to prosecution of persons charged with a misdemeanor crime who have no prior criminal convictions. The FOP informs defendants about the penalties if their actions result in the conviction of a crime, imposes consequences for their acts and, upon successful completion of the FOP, provides for dismissal of the criminal charge(s) against them in which case the defendant’s record would not reflect conviction for such charge(s). Completion of the requirements imposed by participation in the FOP is intended through intervention to change behavior so that subsequent criminal offenses will be prevented.

BENEFIT

Participating defendants and the community will benefit by offenders successfully completing the FOP. One of the conditions of the FOP being that an offender is required to perform community work service and give something back to the community in which he or she lives and/or where the offense was committed. This requirement, giving individuals something tangible to reflect on, will have a greater impact, and for a longer period of time, than merely being processed through the criminal justice system. By participating in the FOP, it is the Court’s hope and intention that defendants improve their feelings of self-worth and self-respect, and take pride in themselves and their community. In addition, the Court expects that participating defendants will view the entire judicial system in a more positive light as they become law-abiding citizens. The FOP benefits the defendants and their community by allowing them to grow emotionally, mentally and morally.

ELIGIBILITY REQUIREMENTS

- A. A defendant who wishes to participate in the FOP shall execute the agreement detailed below and waive, in writing, contingent upon his or her successful completion of the FOP and while in the program, his or her right to a speedy trial, as well as all statutory and constitutional periods of limitation that are applicable to the offense with which the defendant is charged.

- B. To be eligible for the program, a defendant must meet all the following criteria:
- (1) No prior felony convictions;
 - (2) No prior misdemeanor convictions within the last ten years, excluding minor traffic offenses;
 - (3) No present criminal involvement or activity other than the charges in the current case for which diversion is requested;
 - (4) No pending criminal charge other than those for which the diversion is requested;
 - (5) No prior participation in any "Diversion" program;
 - (6) No current or previous probation status;
 - (7) The charge for which diversion is requested is not a traffic-related offense, including, but not limited to, Operating a Vehicle Under the Influence of Alcohol and/or Drugs of Abuse under R.C. § 4511.19(A)(1) or a substantially similar municipal ordinance; and
 - (8) The charge(s) is/are one(s) currently considered for diversion by the Court and does not include serious physical harm.

PROCESS

- A. The Court on its own motion, on the motion of the Law Director, or on the motion of a defendant, using the form motion marked as "Appendix A," may initiate an investigation into an alleged offender's eligibility to participate in the FOP. The investigation of candidates eligible for participation in the FOP shall be conducted by the Law Director's Office or the Court's Probation Department, with the assistance of the Law Director.
- B. Following completion of its investigation, the Law Director's Office or Court's Probation Department shall report its recommendation to the Judge concerning the defendant's participation in the program. The report shall be delivered to the Judge within fourteen (14) days of the filing of the motion, unless the Court orders a greater or lesser time for such report.
- C. The report and recommendation shall address the following concerns, where appropriate:
1. Whether the offense caused or threatened serious physical harm to persons or property;
 2. Whether the offense was a result of circumstances unlikely to recur;
 3. Whether the victim of the offense induced or facilitated it;
 4. Whether there are substantial grounds tending to excuse or justify the offense, through failing to establish a defense;
 5. Whether the defendant acted under strong provocation;

6. Whether the defendant is likely to respond quickly to rehabilitative treatment; and
 7. Whether the defendant's lifestyle and attitudes suggest that recidivism is unlikely.
- D. The Court, upon its own determination and concurrence of the Law Director, may offer a *pro se* defendant the opportunity to participate in the FOP.
- E. Before acceptance in the FOP, the Law Director's Office or Probation Department shall complete and provide to defendant the First-Time Offender Program Participation Plan marked as "Appendix B" detailing the terms and conditions which must be satisfied by defendant in order to successfully complete the FOP.
- F. Defendant must thereafter agree, in writing, by executing the Participation Agreement marked as "Appendix C," to the following:
1. Fully and timely pay all applicable FOP and Probation Supervision fees and all court costs prior to completion of the term of the FOP;
 2. Fully comply with all of the Participation Plan terms and conditions prior to completion of the term of the FOP;
 3. To waive any and all statutory and constitutional rights to a speedy trial;
 4. Report to the Probation Department or other support staff at designated times and report any change of address to the Probation Department immediately;
 5. Provide any documentation required by the Probation Department and execute any necessary releases for the Probation Department to obtain any and all documentation and information to determine compliance; and
 6. Obey all Federal, State and Local laws.
- G. Participation in the FOP by a defendant shall be for a minimum period of three (3) months to a maximum of twelve (12) months.
- H. If an eligible defendant has executed the Participation Agreement, all conditions of the FOP process described herein have been satisfied, and the Court finds that the defendant is eligible to participate and, on the record, accepts the defendant in the FOP, the defendant shall enter a "No Contest" plea to the charge(s) filed. The Court shall defer entering a finding of guilt and sentencing the defendant, and shall only do so if the defendant has violated the terms of the Participation Plan requirements and Participation Agreement. The Clerk shall schedule a Plea Hearing to take place immediately after completion of the term of defendant's FOP Participation Plan and on the Law Director Office's regularly scheduled court day to allow its participation in the disposition of the matter. The Court

may direct the Clerk to schedule status hearings during the term, if the parties so request.

- I. If the defendant has fulfilled the eligibility requirements set forth hereinafter, the Court will release the defendant upon receipt of a personal recognizance bond conditioned on the defendant's compliance with the terms and conditions of the FOP.
- J. Upon written report by the Probation Department to the Law Director's Office and the Court that the defendant has satisfactorily completed all of the FOP Participation Plan terms and conditions, the Law Director shall file with the Court a Motion to Dismiss the charge(s) using the form Motion marked as "Appendix D." The Court shall not act on the Motion until the scheduled Plea Hearing. At the Plea Hearing and if the Court finds compliance has taken place, the Court shall issue the Judgment Entry (FOP Compliance) marked as "Appendix E" and, upon filing of said Judgment Entry, the Clerk of the Court shall provide the victims, if any, and the arresting agency a copy of the judgment entry.
- K. Should the Court be notified that the defendant has decided not to continue to participate in the FOP in accordance with the Participation Plan or has violated any of the terms and conditions of the Participation Agreement with the Court, the Court shall enter a finding of guilt at the scheduled Plea Hearing, or at a hearing scheduled by the Court prior to the scheduled Plea Hearing as a result of the non-compliance, and proceed to sentence the defendant.

SUPERVISION

The Probation Department will establish a specific Participation Plan which shall include, but not be limited to, Community Work Service, supervise each participating defendant, and periodically meet with the participating defendants to assess their progress.

Any special conditions determined by the Probation Department to be necessary will be provided to defendants in writing, and must be satisfactorily fulfilled prior to the time of the Plea Hearing.

Prior to the scheduled Plea Hearing, the Probation Department shall provide a written report to the Law Director's Office and the Court of the defendant's compliance with all of the FOP Participation Plan terms and conditions with recommendations for final disposition.

**IN THE CONNEAUT MUNICIPAL COURT
ASHTABULA COUNTY, OHIO**

Plaintiff	)	CASE NO:
)	
V	)	JUDGE NICHOLAS A. IAROCCI
)	
Defendant	)	MOTION OF _____
	)	FOR PARTICIPATION IN
	)	FIRST-TIME OFFENDER PROGRAM

On behalf of _____, the undersigned requests that defendant herein be accepted in the Conneaut Municipal Court's First-Time Offender Program for:

(criminal offense(s))

Notice of defendant's participation shall be made to the following:

Arresting Agency: _____

Victim(s): _____

Date

Print:

On Behalf of:

cc: Arresting Agency

Victim(s)

Notice to Victim:

You have the right to submit a written appeal to this Court, objecting to this referral within ten (10) days from the date of this Notice.

**Conneaut Municipal Court
First-Time Offender Program**

PARTICIPATION AGREEMENT

I have been instructed by the Probation Department of the requirements, assignment, and basis for the terms and conditions set forth for satisfactory completion of the First-Time Offender Program (FOP) and the specific actions I must take. Adjustments to my participation plan, as set forth and attached hereto, may only be made by the Probation Officer.

I further understand that the FOP is a short-term pre-trial diversion program conducted under the supervision of the Court's Probation Department to assist individuals with no prior criminal offenses within the criminal justice system wishing to avoid having a criminal record.

I have been recommended for participation in the FOP by the Court or the Law Director's Office. If accepted into the FOP, I agree to:

1. Fully comply with all of the Participation Plan Requirements terms and conditions prior to completion of the term of the FOP, a copy of which I have received;
2. Waive any and all statutory and constitutional rights to a speedy trial;
3. Report to the Probation Department at designated dates and times, and report any change of address to the Probation Department immediately;
4. Provide any documentation required by the Probation Department and execute any necessary releases for the Probation Department to obtain any and all documentation and information to determine compliance; and
5. Obey all Federal, State and Local laws.

I understand that any special conditions determined by the Probation Department will be provided to me, in writing, and must be satisfactorily fulfilled by me prior to the time of my Plea Hearing. Any costs associated with special conditions, including participation in any additional programs, assessments and treatment, are my responsibility.

A written report will be submitted to the Court for review at the Plea Hearing in conjunction with the recommendations of the Law Director and/or Probation Department.

Upon recommendation of the Law Director and/or Probation Department, successful completion of the FOP will result in a dismissal of the charges by the Court.

I understand that my participation in the Conneaut Municipal Court's FOP is a privilege intended to assist me in avoiding further legal issues. I acknowledge receipt of a copy of this agreement and that I will abide by its terms and conditions.

Defendant's Signature

Date

**IN THE CONNEAUT MUNICIPAL COURT
ASHTABULA COUNTY, OHIO**

	)	CASE NO:
Plaintiff)	
V	)	JUDGE NICHOLAS A. IAROCCI
)	
Defendant	)	FIRST-TIME OFFENDER PROGRAM PARTICIPATION PLAN REQUIREMENTS
DOB: _____)	
SSN: _____)	

Defendant's Name: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Medical or Physical Limitations, if any: _____

Offense(s) Committed: _____

Date of Offense: _____

Participation Plan Requirements:

**IN THE CONNEAUT MUNICIPAL COURT
ASHTABULA COUNTY, OHIO**

Plaintiff	)	CASE NO:
)	
V	)	JUDGE NICHOLAS A. IAROCCI
)	
Defendant	)	MOTION TO DISMISS (FOP Compliance)

Now comes Plaintiff, by and through the Conneaut Law Director's Office, and hereby respectfully moves the Court for dismissal with prejudice of the charge(s) filed in the pending matter.

As grounds, the Probation Department has reported that the Defendant has complied with and satisfactorily and completely fulfilled the First-Time Offender Program (FOP) Participation Plan requirements and the terms and conditions of the Participation Agreement previously filed with this Court in this matter. Plaintiff requests the Court to dismiss with prejudice the following charge(s):

Print: _____
Assistant Law Director
City of Conneaut

cc: Arresting Agency
Victim(s)

**IN THE CONNEAUT MUNICIPAL COURT
ASHTABULA COUNTY, OHIO**

Plaintiff	)	CASE NO:
)	
V	)	JUDGE NICHOLAS A. IAROCCI
)	
Defendant	)	JUDGMENT ENTRY
	)	(FOP Compliance)

This matter came on for consideration of the Motion to Dismiss filed by Plaintiff in the captioned matter. The Court finds that the Defendant has complied with and satisfactorily and completely fulfilled the First-Time Offender Program (FOP) Participation Plan requirements and the terms and conditions of the Participation Agreement previously filed with this Court in this matter. For good cause shown, the Court finds the Motion to Dismiss well-taken and should be granted.

IT IS THEREFORE ORDERED that the charge(s) of:

is/are hereby dismissed with prejudice.

IT IS SO ORDERED.

Judge Nicholas A. Iarocci

Approved:

Assistant Law Director

Probation Officer

cc: Arresting Agency
Victim(s)

FOP Form - APPENDIX E