

SUPREME COURT OF FLORIDA

No. 69,276

IN RE: FLORIDA RULES OF PRACTICE AND *
PROCEDURE FOR TRAFFIC COURTS. *
* *

[September 18,1986]

PER CURIAM.

Pursuant to a petition from the Traffic Court Review Committee and the Advisory Commission to the Florida DWI Schools Coordination Trust Fund, the Florida Rules of Practice and Procedure for Traffic Rules are amended in the manner as appended to this opinion. This action shall be effective October 1, 1986.

McDONALD, C.J., and ADKINS, OVERTON, EHRLICH and BARKETT, JJ.,
Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE RULES.

II. GENERAL PROVISIONS

Rule 6.115. DWI School Coordination Trust Fund

(1) Each DWI school approved by the DWI Schools Coordinator is required to remit monthly the assessments collected pursuant to Section 25.387, Florida Statutes, to the DWI School's Coordinator of the Supreme Court on a form provided by the Supreme Court.

(2) Each certified DWI school shall cause records and accounts to be kept in accordance with procedures prescribed by the Supreme Court. Such records and accounts will be subject to audit by the designated representative of the Supreme Court.

(3) Each DWI school shall collect the trust fund in accordance with the plan attached hereto.

The Florida Supreme Court in per curiam opinion of September 14, 1982 (426 So.2d 9), provides in part:

Pursuant to Section 25.387, Florida Statutes, the Supreme Court hereby adopts the following plan for the implementation of the DWI Schools Coordination Trust Fund.

(1) Effective July 1, 1981, all DWI schools in the state of Florida shall assess three dollars against every individual enrolling in a DWI course at the time of the enrollment, including those who transfer to or from a school in another state. Federal military employees, their dependents and retired military personnel who attend a federal military DWI school shall be subject to the assessment. In addition, effective October 1, 1986, second and third offenders evaluated for eligibility for restricted licenses pursuant to section 322.271(2)(b), Florida Statutes, shall be assessed three dollars upon enrollment in the program and upon each subsequent anniversary date of such enrollment for the duration of the restricted license period.

(2) In no case shall the assessment be waived.

(3) Each school shall remit on a monthly basis the assessment collected. The monthly remittance shall be forwarded at such time so as to be received by the Supreme Court by the seventh working day of the next month. The remittance shall be in the form of a check or money order payable to the State of Florida and be sent with a form entitled "DWI Schools Coordination Trust Fund--Remittance of \$3.00 Additional Assessment." See Appendix A.

(4) Each DWI school shall cause records and accounts to be kept which show the collection of each assessment and which will be subject to audit by the Supreme Court. The records of the assessments shall be in a form specified by the Supreme Court. See Appendix B.

(5) Each school shall be responsible for all costs, if any, incurred through compliance with the requirements of the fund.

(6) Each DWI school may request a \$3.00 increase in the fee charged for enrollment in the DWI course, to cover the assessment. The DWI Schools Coordinator's Office shall determine whether a change in the fee is appropriate.

(7) Monies collected by the fund shall be used by the DWI Schools Coordinator's Office to pay for staff salaries, travel and other expenses related to the functioning of the office. The fund will also be used to pay for programs in which the coordinators office engages, including but not limited to, interstate reciprocity, training, certification, monitoring and technical assistance. The Supreme Court may assess the fund for reasonable costs for the administration of the fund.

(8) The DWI Schools Coordinator shall be the administrator of the fund.

III. CRIMINAL OFFENSES

Rule 6.291. Withheld Adjudication; Misdemeanors; Costs and Assessments

(a) When a defendant charged with a criminal offense elects to exercise the option of receiving a withheld adjudication under the provisions of section 318.14(10), Florida Statutes, law enforcement education assessments under section 943.25~~(4)~~-and ~~(8)~~, Florida Statutes, and victims of crimes compensation costs and surcharges pursuant to sections 960.20 and 960.25, Florida Statutes, shall be assessed, in addition to the courts costs assessed by section 318.14(10). However, costs pursuant to the authority of section 27.453, Florida Statutes, for the Local Government Criminal Justice Trust Fund, shall not be assessed.

(b) In addition to any other allowable costs, additional court costs of up to five dollars may, if authorized by administrative order of the chief judge of the circuit, be assessed.

Rule 6.300. Driver License Revocation; Maintaining List

In order to comply with the provisions of section 322.282(1), Florida Statutes, the clerk need not maintain a separate list of driver license revocations or suspensions from his or her existing records.

IV. TRAFFIC INFRACTIONS

Rule 6.330. Election to Attend Traffic School

(a) Unless a mandatory hearing is required, or the alleged offender appears at a hearing before an official, an alleged offender may elect to attend a driver improvement school pursuant to the provisions of section 318.14(9), Florida Statutes, within ~~ten~~ 30 days of receiving the citation. Attendance at a driver improvement school in this manner shall not operate to waive ~~the surcharges for excessive speed imposed by section 318.18(3), Florida Statutes, or~~ the law enforcement education assessments under section 943.25~~(4) and (8)~~, Florida Statutes. Any alleged offender electing to attend driver improvement school under section 318.14(9) will receive a withheld adjudication and not be assessed points.

(b) An offender who is sentenced to or elects to attend a driver improvement school shall have the right to attend such an approved school in the county location of his residence choice ~~if his county has an approved driver improvement school. -- If his residence county does not have an approved driver improvement school, the offender shall have the right to attend an approved driver improvement school in the county closest to his county of residence that has an approved school.~~

Rule 6.360. Enlargement of Time

(a) When by these rules or by a notice given thereunder or by order of an official an act is required, or allowed to be done at or within a specified time, the official for good cause shown may, at any time, in his discretion (1) order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act ~~the~~ to be done when the failure to act was the result of excusable neglect; but it may not, except as provided by statute or elsewhere in these rules, extend the time for making a motion for a new hearing, or for taking an appeal.

(b) When an alleged offender elects to exercise the option of receiving a withheld adjudication pursuant to the provisions of section 318.14(9) or (10), Florida Statutes, the clerk may allow the offender such additional time as may be reasonably necessary to fulfill the statutory requirements.

Rule 6.470. Costs

(a) In those cases where a hearing is held to determine whether a traffic infraction was committed, court costs up to twenty-five dollars may be assessed by the official against the offender in addition to the penalty imposed.

(b) Where no hearing is required or held and the offender admits the commission of the offense by ~~forfeiting a bond~~, paying the penalty or receiving a withheld adjudication pursuant to the provisions of section 318.14(9) or (10), Florida Statutes, the following costs may, if authorized by administrative order of the ~~Chief Judge~~ chief judge of the ~~Circuit~~ circuit, be deducted from, or in the case of section 318.14(9) or (10) elections, be added to, the penalty or costs by the traffic violations bureau or clerk's office:

- (1) ~~Two~~ Three dollars for all violations of pedestrian regulations under section 316.130 and violations of Chapter 316 by a bicyclist 14 years of age or under;
- (2) ~~Five~~ Six dollars for all non-moving traffic infractions; and
- (3) ~~Seven~~ Ten dollars for all moving infractions.

(c) The assessments for law enforcement training established in section 943.25~~(4)~~-~~and~~-~~(8)~~, Florida Statutes, shall be collected in addition to the civil penalty if there is a hearing, or, in addition to the costs required under section 318.14(9) and (10), Florida Statutes.

If an offender elects a driver improvement school as provided in Rule 6.330 of these Rules, the law enforcement education assessments shall be collected at the time the offender appears before the traffic violations bureau to make his or her election.

Rule 6.480. Deferred Payment of Penalty Imposed

(a) Upon motion of the offender or upon his own motion an official may allow a reasonable amount of time before requiring the payment of a penalty imposed. If payment is not made after such extention ~~of~~ or extensions, such action will be considered a failure to comply for purposes of section 318.15, Florida Statutes.

(b) In relation to elections under the provisions of section 319.14(9) or (10), Florida Statutes, the clerk, under the authority of an administrative order, may allow a reasonable amount of time before requiring the payment of civil penalties or costs.

Rule 6.560. Conviction of Traffic Infraction

An admission or determination that a person has committed a traffic infraction shall constitute a conviction as that term is used in Chapter 322, Florida Statutes, and section 943.25~~(4)~~-~~and~~-~~(8)~~, Florida Statutes, unless adjudication is withheld by an official in those cases in which withholding of adjudication is

not otherwise prohibited by statute or rule of procedure. Elections under section 318.14(9) or (10), Florida Statutes, where adjudication is withheld, shall not constitute convictions, but shall involve the collections of assessments pursuant to section 943.25~~(4)~~-~~and-(8)~~, Florida Statutes.

Rule 6.570. Reporting Action Requiring Suspension of Driver License

Any noncompliance with the provisions of Chapter 318, Florida Statutes, resulting in the suspension of a driver license shall be reported to the department within five days after an offender's failure to comply ~~with the requirements of section 318.18(1)~~, on a form to be supplied by the department. Any noncompliance may be determined without the necessity of holding a hearing.

Rule 6.590. Failure to Complete Driver's School; Reinstatement of Driver License

(a) In any case where a person elects to attend driver's school but fails to appear for or complete the course, a ~~delinquency notice shall be sent to the person pursuant to section 318.15(1), Florida Statutes, unless such a notice has previously been sent to the person in relation to the same infraction. If such a delinquency notice has been previously sent,~~ notice of failure to complete the course shall be sent to the department within ~~10 days of such failure and the person's driver license shall be deemed suspended. Otherwise,~~ notification of the department shall follow 5 days after failure to comply in order to comply with the requirements of section ~~318.18(1)~~ 318.15(1).

(b) If the person appears after notice has been sent but before the department has suspended the driver license, the department shall be notified on a form to be supplied by the department immediately after the civil penalty as provided in section 318.18, Florida Statutes, has been fulfilled.

(c) If the person appears after the driver license has been suspended the offender must fulfill the civil penalty as provided in section 318.18, Florida Statutes, and may be required to agree again to attend a driver school. The person shall be given a form supplied by the department, certified by the official, to be taken to the nearest driver license examining station in order to have the driving privilege reinstated.

Rule 6.600. Failure to Appear or Pay Civil Penalty; Reinstatement of Driver License

(a) In any case where no mandatory hearing is required and the person has signed and accepted a citation but fails to pay

the civil penalty or appear, ~~a delinquency notice shall be sent to the person pursuant to section 318.15(1), Florida Statutes, unless such a notice has previously been sent to the person in relation to the same infraction. If such a delinquency notice has been previously sent,~~ notice of such failure ~~must shall~~ be sent to the department within ~~10 days of the failure and the person's driver license shall be deemed suspended. Otherwise,~~ notification of the department shall follow 5 days after failure to comply in order to comply with the requirements of section ~~318.18(1)~~ 318.15(1).

(b) If the person appears after the notice has been sent but before the department has suspended the driver license, the civil penalty may be paid without a hearing or the person may agree to attend a hearing. The department shall be notified immediately on a form to be supplied by the department.

(c) If the person appears after the driver license has been suspended, the alleged offender may pay the civil penalty without a hearing and may be required to agree to attend a driver school or may agree to attend a hearing. If an election to attend a hearing is made and it is determined that the infraction was committed the offender is subject to the penalty provisions of section 318.14(5), Florida Statutes. The person shall be given a form supplied by the department, certified by the official, to be taken to the nearest driver license examining station in order to have the driving privilege reinstated.

Rule 6.610. Failure to Fulfill Penalty Imposed After a Hearing; Reinstatement of Driver License

(a) In any case where a hearing is held, if it is determined that the infraction was committed and a penalty is imposed but the penalty is not fulfilled, ~~a delinquency notice shall be sent to the person pursuant to section 318.15(1), Florida Statutes, unless such a notice has previously been sent to the person in relation to the same infraction. If such a delinquency notice has been previously sent,~~ notice of such failure ~~must shall~~ be sent to the department within ~~10 days of the failure and the person's driver license shall be deemed suspended. Otherwise,~~ notification of the department shall follow 5 days after failure to comply in order to comply with the requirements of section ~~318.18(1)~~ 318.15(1).

(b) If the person appears after notice has been sent but before the department has suspended the driver license the department shall be notified on a form to be supplied by the department immediately after the penalty imposed has been fulfilled.

(c) If the person appears after the driver license has been suspended the offender must fulfill the penalty and, if not a part of the penalty originally imposed, may be required to agree to attend a driver school if available. The person shall be

given a form supplied by the department, certified by the official, to be taken to the nearest driver license examining station in order to have the driving privilege reinstated.

Rule 6.620. Failure to Appear for Mandatory Hearing;
Reinstatement of Driver License

(a) In any case where a mandatory hearing is required and the person fails to appear, ~~a delinquency notice shall be sent to the person pursuant to section 318.15(1), Florida Statutes, unless such a notice has previously been sent to the person in relation to the same infraction. If such a delinquency notice has been previously sent,~~ notice of such failure to appear must shall be sent to the department within ~~10 days of the failure and the person's driver license shall be deemed suspended. Otherwise, notification of the department shall follow~~ 5 days after failure to comply in order to comply with the requirements of section ~~318.18(1)~~ 318.15(1).

(b) If the person appears after notice has been sent the department shall be notified immediately on a form to be supplied by the department and a hearing shall be held to determine whether the infraction was committed.

(c) If the person's driver license has been suspended by the department and, after a hearing, it is found that the infraction was committed, the official may require that driver's school, if available, be attended as part of the penalty. The person shall be given a form supplied by the department, certified by the official, to be taken to the nearest driver license examining station in order to have the driving privilege reinstated.

Original Proceeding - Florida Rules of Practice and Procedure for
Traffic Courts

Richard E. Cox, Executive Secretary, Traffic Court Review
Committee, Tallahassee, Florida, and H. Richard Whitworth,
Administrator, Advisory Commission to the Florida DWI Schools
Coordination Trust Fund, Tallahassee, Florida,

for Petitioners