

**VIRGINIA: IN THE CIRCUIT COURT OF SMYTH COUNTY**

**IN RE: PAYMENT PLAN POLICY FOR COURT COSTS, FINES, AND RESTITUTION**

**ORDER**

Pursuant to Rule 1:24 of the Rules of the Supreme Court of Virginia, the following are the guidelines for payment plans for unpaid costs, fines, and restitution arising out of the Circuit Court of Smyth County, Virginia, to wit:

1. Any defendant who is unable to pay in full their fines, costs, and/or restitution for a particular offense within 30 days of conviction, or other disposition authorized by law, shall be offered the opportunity to enter into either (A) an installment payment plan or (B) a deferred payment plan to pay those fines, costs, and restitution.
  - (A) An “installment payment plan” is an agreement by a defendant with the Court for a defendant to make monthly or other periodic payments until all monies owed are paid in full.
  - (B) A “deferred payment plan” is an agreement by a defendant with the Court for a defendant to pay the full amount of monies owed (or substantial portion thereof) at the end of a six month period and the defendant will make a good faith effort to make monthly payments, too.
  
2. To apply for a payment plan, a defendant must appear in person in the Clerk’s Office of this Court and complete both a “Request for Deferred or Installment Payments Form” and an “Order and Notice of Deferred or Installment Payments” [Form CC1379]. The Clerk is hereby authorized by the Court to approve requests pursuant to the terms of this Order, unless the Court has already ruled upon a defendant’s request or has already established terms for a payment plan. The Court reserves the right in certain cases to make all decisions regarding collections and approval of payment plan agreements.
  
3. Unless otherwise ordered, a down payment is required to enter into a payment plan.

For a FIRST PAYMENT PLAN, the down payment required is as follows:  
If the total amount is \$500 or less, a down payment of at least \$50 is required.  
If the total amount is over \$500, it is a payment of 10% or \$100, whichever is greater.

For a SECOND PAYMENT PLAN, 15% of the total amount owed is required.

For a THIRD PAYMENT PLAN, 20% of the total amount owed is required.
  
4. Requests for payment plans after a defendant has defaulted on their third plan must be approved by the Court.
  
5. For installment plans, unless otherwise approved or set by the Court, all payments shall be at least \$50 per month and shall be due on the 25<sup>th</sup> day of each month.

6. A defendant's financial resources will be taken into account in determining the amount and length of time to pay. At any time during the duration of a payment plan, the defendant may request modification of the plan by the Court, which will be granted based on a good faith showing of need.
7. A defendant may be given credit for community service, provided that the defendant is on active supervised probation and their probation officer recommends and reports the completed hours to the Clerk for credit. One hour of community service may be credited as \$10 towards a defendant's court costs and fines. Community service may not be credited to restitution obligations.
8. For deferred payment plans, defendants who successfully pay as agreed shall be entitled to renew their deferred payment plan for another six months.
9. If a defendant has obligations for multiple convictions, then any payments received shall first be applied to satisfy the oldest case obligations, and then payments shall be applied to satisfy obligations arising out of more recent convictions, in descending age order.
10. If a defendant owes restitution arising out of any case, notwithstanding whether it is an old or newer case, then any payments received shall first be applied to satisfy all restitution obligations. After all restitution obligations are satisfied in full, then payments shall be applied to any unpaid fines and costs.
11. If paying by mail, the defendant must provide on the method of payment (such as on the memo line of a check) their name as it was upon conviction and/or the case number(s). Receipts for payments will only be mailed to a defendant when a self-addressed and stamped envelope is provided with the payment.
12. As a condition of any payment plan agreement, the defendant must promptly inform the Court of any change of mailing address during the term of the agreement.
13. Failure to make all required payments pursuant to a payment plan agreement shall result in immediate suspension of the Defendant's driver's license. Additionally, the defendant may be subject to a reinstatement fee payable to the Department of Motor Vehicles.
14. Failure to make all required payments pursuant to a payment plan agreement may also result in the issuance of a show cause summons or capias for arrest for failure to comply with the agreement.
15. These guidelines shall become effective February 1, 2017.

ENTER THIS THE 1<sup>st</sup> DAY OF February, 2017.

  
DEANIS L. SIMMONS, JUDGE

INSTRUMENT #170000282  
RECORDED IN THE CLERK'S OFFICE OF  
SMYTH ON  
FEBRUARY 1, 2017 AT 02:11PM

JOHN H. GRAHAM, CLERK  
RECORDED BY: ADR