

37th JUDICIAL CIRCUIT OF MICHIGAN

Directive

RE: Community Service Requirements; Criminal Cases

This directive sets forth the general standards and procedures for authorizing defendants who are on probation in felony criminal cases and are unable to fulfill their obligations as to non-restitution financial assessments/sanctions (NRFA) to perform community service.

As a general rule, community service in lieu of payment of NRFA will not be considered unless the defendant is in jeopardy of failing to comply with the court order and has demonstrated to the probation officer and the court that he/she has exercised due diligence in attempting to comply. In such cases, in lieu of waiving payment of any sanction or portion thereof, the defendant shall be required by the court to offset the unpaid balance or portion thereof with community service under the general supervision of the local Department of Corrections office (DOC.)

1. The determination for permitting community service in lieu of payment or partial payment of imposed non restitution financial sanctions will be made by the court as part of the compliance review process. Generally, the decision will come at the review hearing held approximately 6 months prior to the scheduled completion of probation and will be based on the defendant's payment compliance to date and demonstration of due diligence in attempt to comply with payment of the sanctions.

2. If the court determines to permit community service, offset credit will be based on the higher of the federal or state minimum wage in effect at the time the community service is performed.

3. The local DOC office may maintain a roster of eligible community service opportunities or require the defendant to seek and request approval of a specific opportunity. Generally eligible for consideration are governmental agencies and IRS recognized not for profit entities. The court may require a written agreement between the Court and any work place and impose reasonable rules to minimize potential liability to the county.

4. Written verification shall be provided to the DOC on a monthly basis as to the specific time (i.e. dates and hours) worked by the defendant and the nature of the service provided. The local DOC office or court may provide a form to evidence verification.

5. The written verification of the hours will be reviewed by the probation officer who will note on the form the appropriate dollar credit by multiplying the number of verified hours by the applicable minimum hourly wage in effect at the time the work was performed. The probation officer shall then forward the form with the financial computation to the Circuit Court Clerk's Office. The Clerk's Office will credit the defendant's non restitution account in

the case management financial system.

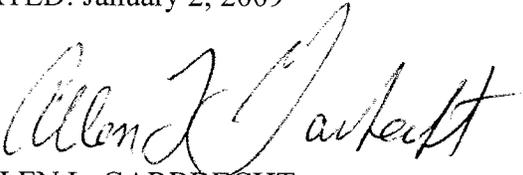
6. It is the expectation of the court that unless medically or otherwise unable to work during the expected normal term of probation, a defendant will be able to pay at least 50% of imposed non restitution financial sanctions and that the remainder may be subject to community service work offset.

7. If necessary to assure payment of non restitution financial sanctions, the probation officer may recommend that the court extend the term of probation if otherwise statutorily permissible.

8. In certain circumstances, the court may decide that performance of community service work is an appropriate sanction for the crime. This directive does not limit the authority of the court to also permit additional community service as a sanction for non payment of imposed non restitution financial sanctions pursuant to this directive.

This directive is effective immediately.

DATED: January 2, 2009



ALLEN L. GARBRECHT,
Chief Circuit Judge

C: Circuit Judges
Court Administrators
Judicial Staff
David Riley, Probation Agent in Charge
James Peterson, Probation Agent in Charge
Toni Fritz, Chief Deputy Circuit Court Clerk
Bruce Huepenbecker, Financial Manager, Circuit Court Clerk's Office
Regional State Court Administrator Hughes

