

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

ORDER ESTABLISHING PILOT  
LASER DOCKET

ADM. 1  
ORDER 10-1


ORDER

Effective May 3, 2010, the court authorizes the creation of a pilot Law Abiding, Sober, Employed and Responsible (LASER) Docket. Judge Joseph N. Laplante has agreed to exercise primary supervisory authority over the program. The procedural details for the program are outlined in the attached document entitled *Implementation of Pilot LASER Docket*, which may be changed as deemed necessary by the Supervisory Judge without further court order.

Coterminous with the creation of the pilot LASER Docket, the court also authorizes the creation of a CJA LASER Subpanel. The Supervisory Judge, after consulting with the Office of the Federal Public Defender and the LASER Docket defense attorney working group, may select members from the CJA Panel to serve on this newly formed subpanel.

At the conclusion of each calendar year during the pilot phase of this program, the court may evaluate the efficacy of the LASER Docket and, if it deems appropriate, may elect to extend or terminate the program.

SO ORDERED.



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Steven J. McAuliffe  
Chief Judge

April 9, 2010

Attachment

cc: All judges  
Office of the Federal Public Defender  
Office of the United States Attorney  
CJA Panel Members

United States District Court  
District of New Hampshire

**IMPLEMENTATION OF PILOT LASER DOCKET**

1. Pre-Conviction Cases: A judge, defense counsel, or the Office of the United States Attorney ("USA") may request that a defendant be considered for entry into the Law Abiding, Sober, Employed and Responsible Docket ("LASER"). Counsel shall make any such request in writing directed to the Office of U.S. Probation and Pretrial Services ("USP") and shall not file the request with the clerk's office. Upon receipt, the USP shall make a preliminary determination regarding the defendant's potential to meet the eligibility requirements. If the USP determines the defendant is not potentially eligible, counsel may request, through the USP and not by motion to the court, a status conference with the Supervisory Judge to further pursue the defendant's eligibility for LASER. If the defendant is determined to be potentially eligible, the following shall occur:
  - A. With the assent of the Program's Supervisory Judge, the USP shall immediately prepare an assessment and referral report; and
  - B. At least seven (7) days before the final pretrial conference (or 17 days before trial if the presiding judge does not conduct a pretrial conference) or the indictment show cause hearing, the parties shall file the following with the clerk's office:
    - i. Indictment: An assented to motion to continue with a waiver of speedy trial. The clerk's office will reschedule the matter for trial to keep the case properly scheduled should the defendant withdraw from the application process or be found not eligible.
    - ii. Complaint: Either an assented to motion to extend the time to indict or an information and waiver, a motion to continue the new case to allow time to assess the defendant for LASER, and a waiver of speedy indictment or trial as appropriate. The clerk's office will schedule the case for the next appropriate event (either a show cause, initial appearance or trial) to keep the case properly scheduled should the defendant withdraw from the application process or be found not eligible.

2. Post-Conviction Cases: A judge, defense counsel, or the USA may request that a post-conviction defendant be considered for entry into LASER. If either party believes the defendant is potentially eligible for LASER, the following shall be filed:
  - A. A memorandum explaining why the defendant is an appropriate LASER candidate. If the presiding judge sua sponte orders that the defendant be considered for LASER, the court may direct the USP or counsel to prepare such a memorandum. If the matter is scheduled for a final revocation hearing on a violation of probation/supervised release, the memorandum and any assented to motion to continue the final hearing shall be filed at least three (3) days before the hearing. If a continuance is sought and granted, the clerk's office will reschedule the matter for final hearing to keep the case properly scheduled.
  
3. USP will schedule a) a date or dates when the defendant can observe a LASER Review Hearing ("Review Hearing"), and b) a team meeting to determine whether the defendant will be admitted into LASER. The "Team" shall consist of the Supervisory Judge, USP, defendant's counsel, the USA, and a licensed alcohol and drug abuse counselor ("LADAC"). No defendant may enter LASER in a pre-conviction case without the assent of the USA. The Team decision is final and no motion may be filed to further review a denial. When a final entrance decision is made, one of the following shall occur:
  - A. Non-Acceptance or Declination to Enter LASER: Counsel for the defendant shall file with the clerk's office a "Notice of Non-Acceptance into LASER." Upon receipt of this Notice, the clerk's office will leave the case as scheduled with the originally assigned judge; OR
  - B. Acceptance into LASER: The defendant shall execute an Agreement to participate in LASER, which shall be forwarded to and maintained by the USP. Counsel for the defendant shall file with the clerk's office a "Notice of Acceptance into LASER." If the defendant has not yet pled guilty to the underlying offense or violation, the matter should be set for a change of plea/plea guilty to violation hearing before the presiding judge. Upon both the receipt of a Notice of Acceptance into LASER and the entry of a guilty plea before the presiding judge, the clerk's office shall:
    - i. If pre-conviction case, reassign the defendant to the Supervisory Judge (if single defendant case give him a case credit and give the transferor judge a new case assignment) and administratively close the case; or

- ii. If post-conviction case, reassign the case to the Supervisory Judge; and
  - iii. If the defendant is not represented by a Federal Public Defender ("FPD") or a CJA LASER Subpanel member, appoint new counsel for the defendant in the following order: the FPD, unless the appointment presents a conflict of interest, in which case a CJA LASER Subpanel member. Based upon the anticipated financial hardship caused by awaiting payment until the conclusion of LASER and ultimate disposition of the case, the originally appointed attorney may immediately request interim attorney fee reimbursement payments.
4. Upon acceptance into LASER and entry of a guilty plea, participants and Team members shall attend Review Hearings as directed. The Supervisory Judge will conduct a one hour Team Conference prior to each Review Hearing session. The USP and treatment provider will provide progress reports at each session. Except as outlined in paragraph 3 above, no defendant may participate in a LASER Review Hearing until the defendant is both formally accepted into LASER and has plead guilty before the presiding judge.
5. Non-compliant behavior may be addressed at the Review Hearing or on an expedited basis, with or without notice, and any sanction for non-compliance may be imposed at the discretion of the Supervisory Judge. Sanctions may range from, inter alia, a reprimand to temporary incarceration or termination from LASER. If a participant fails to appear for a Review Hearing or otherwise violates a LASER condition, the USP may file with the clerk's office a request for an arrest warrant to issue and/or a petition for revocation of pretrial release. In response to an alleged violation, the participant may only maintain guilt or innocence and may not offer an explanation or justification for the alleged non-compliant behavior. Non-compliant behavior and any resulting sanction shall be documented and maintained by the USP.
6. A participant may be terminated from the LASER for, inter alia, failure to participate in treatment, failure to follow the rules of supervision, repeated technical violations of general conditions of release, failure to make court appearances, repeated drug use, or the commission of a new criminal offense. Upon termination from LASER, the USA shall file with the clerk's office a "Notice of Termination of Participation in LASER," the case shall be re-opened (if pre-conviction case) and scheduled for a sentencing hearing, the defendant will return to traditional pretrial supervision, and the USP may file a petition for revocation of pretrial release.
7. Upon successful completion of LASER, the participant will receive a Certificate of Completion and the Team will make a final criminal case disposition recommendation to the Supervisory Judge, which he may adopt or disregard in whole or in part within

his discretion. While the disposition may include superseding charges, in no event will it include a dismissal of all charges. Counsel for the defendant shall file with the clerk's office a "Notice of Completion of LASER" and request a time frame by which the matter should be set for a sentencing hearing.

dan/drug court/adm 1 10-1 Drug Court (1-7-10).wpd