

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

NOV 29 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BY DAVID J. MALAND, CLERK
DEPUTY *[Signature]*

**GENERAL ORDER REGARDING CONFIRMATION OF POSITIVE DRUG TEST
RESULTS FOR PRETRIAL DEFENDANTS, PROBATIONERS, AND SUPERVISED
RELEASEES**

It has been the policy of the U.S. Probation Office to confirm through gas chromatography/mass spectrometry techniques all presumptive positive drug tests for those defendants, probationers and supervised releasees under supervision who test positive for drug usage. Because of the necessity to reduce spending where possible, and because federal statutes do not require such confirmation in all cases, confirmations will not be performed when not required.

Specifically, 18 U.S.C. §§ 3563(e) and 3583(d) require confirmation only if the initial drug test is positive, the defendant/offender is subject to possible imprisonment, and either the defendant/offender denies the accuracy of such test or there is some other reason to question the results of the test. As such, the following policy is adopted by the Court.

When a pretrial defendant, probationer or supervised releasee submits a presumptive positive drug test result, he will be questioned by the probation officer. Specifically, he will be asked about the circumstances surrounding the positive test results. If he admits to drug usage, he will be asked to provide a written statement admitting to such use. While no standard form is required, the statement should include: the date of the positive test result, an acknowledgment that the defendant/offender used a drug(s), and the defendant/offender's signature. In such cases, confirmation of the presumptive positive test result will not be required. In all other cases, or if the probation officer believes there is some other reason to question the results of the drug test, confirmation will be required.

The Court will consider written admissions definitive proof that the defendant/offender used any drug admitted to, unless the defendant/offender proves by clear and convincing evidence the statement he provided was not accurate.

This general order supersedes any prior conflicting general orders.

Signed this 29th day of November, 2004.

FOR THE COURT:

[Signature]
THAD HEARTFIELD
Chief Judge