

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	SECOND DIVISION
)	
vs.)	
)	NO(s).
)	
)	
<i>Defendant.</i>)	

**ORDER MODIFYING SENTENCE UPON COMPLETION OF
THE HAMILTON COUNTY DRUG RECOVERY COURT**

This cause came before the Court upon Notice that the above named Defendant (“**Graduate**”) has satisfactorily completed all phases of the Hamilton County Drug Recovery Court Program and has received a Certificate of Graduation from the Program dated **[date]**. Accordingly, it is hereby **ORDERED** as follows:

Pursuant to Tenn. Code Ann. §§ 40-35-212(d) and 40-35-303(e),¹ the Court hereby modifies the Graduate’s sentence(s) to suspend the balance of such sentence(s) upon the following conditions imposed pursuant to 40-35-303(d). Except as otherwise noted, all of these conditions of probation shall last for the duration of the probationary term unless and until these conditions are further modified by a subsequent order of this Court:

1. The Graduate shall not knowingly or recklessly assist in another’s violation of the Drug Recovery Court rules and regulations, as those rules and regulations are set forth in the Participant Contract, Participant Handbook, or orders (probationary or otherwise) of the Drug Recovery Court.
2. The Graduate shall not commit new violations of federal, state, or local law during the term of this probation.
3. The Graduate shall not possess, use, or consume alcohol to excess. The Graduate shall not unlawfully possess, use, or consume controlled substances, or controlled substance analogues.

¹ See *State v. Lloyd*, No. M2017-01919-CCA-R3-CD, 2018 WL 5077694, *6 (Tenn. Crim. App. Oct. 17, 2018) (“We hold that the trial court had full jurisdiction over the defendant pursuant to Tennessee Code Annotated section 40-35-212(d)(1) and that the court had the authority pursuant to Tennessee Code Annotated section 40-35-303(e) to suspend the defendant’s sentence and place her on probation.”).

4. The Graduate shall not possess or use a firearm or other dangerous weapon.
5. If the Graduate was subject to a restitution order as a condition of the original sentence, the Graduate shall pay all restitution owing under the original terms.
6. Upon a violation of any condition of this probation, the Graduate shall be subject to probation revocation proceedings pursuant to Tenn. Code Ann. § 40-35-311. If, after a hearing, the Graduate is found to have violated any of these conditions, then the Court may consider the following: (1) ordering a term of confinement; (2) ordering execution of the sentence as originally entered; (3) returning the Graduate to probation on appropriate modified conditions; or (4) extending the Graduate's probationary period by up to two years.² The Court may also consider resentencing the Graduate for the remainder of the unexpired term to any community-based alternative to incarceration as authorized by Chapter 36 of Title 40; provided that, the violation of the Graduate's probation is a technical one and does not involve the commission of a new offense.³
7. If the Graduate's sentence is ordered into execution upon a violation of probation, the Graduate shall be entitled to eighteen (18) months pretrial jail credit for the time served in the Hamilton County Drug Recovery Court.⁴

It is so ordered.

Enter:


TOM GREENHOLTZ, Judge

² See Tenn. Code Ann. §§ 40-35-308(a), -308(c), -310, -311(e)(1); see also *State v. Hunter*, 1 S.W.3d 643, 648 (Tenn. 1999).

³ See Tenn. Code Ann. § 40-35-310.

⁴ The Defendant's furlough to the Drug Recovery Court provided that "Upon successful completion of the Drug Recovery Court program evidenced by a graduation certificate, the Defendant shall be entitled to credit for time spent in the Drug Recovery Court program, up to a total of 18 months, against the original sentence imposed in this case." As such, with the successful graduation from the Drug Recovery Court program, the Court recognizes this credit now. See Tenn. Code Ann. § 40-35-316(a); *State v. Bogle*, No. W2011-01706-CCA-R3-CD, 2012 WL 3061839, at *3 (Tenn. Crim. App. July 27, 2012) (recognizing that a rehabilitative furlough may provide for jail credit for time spent on the furlough).