

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

ORDER ESTABLISHING MENTAL HEALTH COURT
FOR LEE COUNTY

There is created within the Twentieth Judicial Circuit in and for Lee County, Florida, a Mental Health Court. The court will hear only those criminal court matters that do not impact the public safety or the safety of the victim. The State Attorney's Office shall screen each defendant referred to the Mental Health Court and shall determine which cases will be placed into the Mental Health Court Program. This decision shall be made with input from defense counsel, the court and the Staff of the Mental Health Court.

Beginning May 1, 2002, or as soon thereafter as is practicable, and through separate Administrative Assignment Order, the presiding judge in Mental Health Court will hear those criminal court matters referred to the Mental Health Court Program. The Mental Health Court Program shall be composed of Staff whose services are employed or utilized by or contracted to the Office of the Court Administrator or the Court. The Program Staff shall evaluate defendants who might have or have previously been identified as having a mental illness. The Staff shall also identify treatment options in the community and monitor for the Court an appropriate plan of treatment depending on whether the defendant is on probation, diversion, or pretrial release.

The judge who conducts weekday first appearance hearings will be assigned to handle cases within the Mental Health Court Program. Referrals to the program may be made by any circuit or county judge, a general or special master, the Staff of the Mental Health Court Program, the State Attorney, defense counsel, or staff from the jail or the Southwest Florida Detention Center. Any family member, guardian or other interested person may request a referral through the State Attorney.

The Mental Health Court shall handle cases under the following two classifications:

I. When the defendant is placed on pretrial release pending trial, has entered into a deferred prosecution agreement, or has been placed on probation and has been diagnosed with a mental illness by a mental health expert.

II. When the defendant's attorney, the State Attorney or the court on its own accord has moved to determine competency to proceed pursuant to Fla. R. Crim. P. 3.210. The mental competency evaluation process, as set forth in the Rules of Criminal Procedure shall be within the purview of the Mental Health Court and shall be applicable to the point of a contested hearing. Any contested hearings will be scheduled before the assigned trial judge as set forth more fully below.

The policies, procedures and conduct of court proceedings in the Mental Health Court shall be as follows:

(a) Pretrial release and bond decisions may be made by the Mental Health Court judge. All such cases referred to the Mental Health Court Program will be monitored by the Mental Health Court Program Staff and the Mental Health Court judge.

(b) Upon screening and recommendation by the State Attorney, and then with the agreement of defense counsel, the Mental Health Court judge may defer prosecution of criminal charges pending compliance by the defendant with an appropriate course of treatment recommended by the Mental Health Court Program Staff.

(c) The appropriate course of treatment may include regular appearances before the court to report on compliance. Upon completion of the appropriate course of treatment and upon agreement of the parties, the State shall file a notice of nolle prosequi in regard to the

pending charges against the defendant. A waiver of speedy trial and an agreement to pay full restitution to any victim will be conditions of any deferred prosecution.

(d) All agreements for deferred prosecution shall be in writing, signed by the defendant, defense counsel and the State Attorney, and shall thereafter be filed in the court file. If the defendant fails to comply with the conditions of the deferred prosecution, the case shall be referred by the Mental Health Court Program Staff or the State Attorney back to the assigned trial judge's docket. The court may retain jurisdiction of the case to monitor compliance for such time as is permitted by law.

(e) Upon agreement of the State Attorney and defense counsel, pleas for sentences of probation based upon mental health treatment may be accepted by the Mental Health Court judge and shall include regular monitoring of probation as that may relate to mental health issues. Violation of probation hearings shall be handled by the assigned trial judge, unless the State Attorney, defense counsel and the Mental Health Court judge agree that the violation of probation hearing should be retained on the Mental Health Court docket.

No decision regarding deferred prosecution or referral to the Mental Health Court will be made without input from the victims and with the opportunity for input from the State Attorney and defense counsel.

The assigned trial judge may have the case removed from the Mental Health Court docket for good cause shown and after notice has been provided by the Court, Staff or counsel for the State or defense to all interested parties and an opportunity to be heard by the litigants has been duly provided.

The public is entitled to access to judicial records pursuant to Fla. R. Jud. Admin.

2.071. However, patient treatment records are deemed confidential by Florida law. In order to be accepted into the Mental Health Court Program, a defendant must sign a waiver of confidentiality to the extent that his treatment may be monitored by Mental Health Court Staff, the State Attorney and defense counsel.

In the event a treatment record or report is placed in the court file of a Mental Health Court case, the court will determine whether such report is confidential under Florida law, and if so, shall order that the document be sealed by the Clerk. Access to such documents will be limited to those authorized by Florida law and only then by court order following a hearing and an opportunity to be heard by the parties.

This order supercedes the prior Order Establishing Mental Health Court entered May 13, 2002.

DONE AND ORDERED in Chambers, at Naples, Collier County, Florida this 08 day of August, 2003.

Hugh D. Hayes
Hugh D. Hayes
Chief Judge

History. - Order Establishing Mental Health Court for Lee County (May 13, 2002).

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...copy of the
...my office,
...Clerk Circuit
...County, Florida
By 8-8-03
Deputy Clerk

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STATE OF FLORIDA, COUNTY OF LEE
FILED FOR RECORD
This 8 Day of Aug 2003 Record in 1100
Book 47 Page and Record Verified.
CHARLIE GREEN By
Clerk Circuit Court Deputy Clerk