

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
AND FOR INDIAN RIVER, MARTIN,
OKEECHOBEE, AND ST. LUCIE
COUNTIES, STATE OF FLORIDA

ADMINISTRATIVE ORDER 2014-11

IN RE: MENTAL HEALTH COURT PROGRAM

WHEREAS, the Florida Legislature through Chapter 394 has encouraged the creation of mental health courts to align policy initiatives in the criminal justice and mental health systems to ensure the most effective resources and to coordinate the shared needs of adults who have a mental illness and who are in or at risk of entering the criminal justice system; and

WHEREAS, specialized courts have enhanced the expediency, effectiveness, and quality of judicial administration; and

WHEREAS, since courts and jails have not historically been able to adequately address the treatment needs of the mentally ill and developmentally disabled, a centralized mental health court program would be beneficial to the administration of justice, increase the efficiency of the criminal justice system, best protect public safety, reduce recidivism and help those mentally ill or intellectually disabled persons build successful lives; and

WHEREAS, through cooperation and assistance of the counties, state attorney and public defender, a mental health court program has successfully operated in St. Lucie County since June 6, 2006 and in Martin County since October 31, 2007; and

WHEREAS, a mental health court program would be beneficial in the other counties;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Nineteenth Judicial Circuit of Florida under Rule 2.215, Rules of Judicial Administration, it is hereby ORDERED as follows:

1. A Mental Health Court shall be operational as a subdivision within the Criminal Divisions of the Circuit and County Courts of each county in which a judge is assigned to Mental Health Court in the annual judicial assignments order. The same judge shall be assigned to handle the cases arising from the criminal divisions of both circuit and county courts unless otherwise specified in the annual judicial assignments order.

2. ELIGIBILITY

A. Defendants Adjudicated Incompetent to Proceed or Not Guilty by Reason of Mental Disability

Any defendant who is adjudicated incompetent to proceed or not guilty by reason of insanity and who has been placed on conditional release shall be transferred to Mental

Health Court. Any defendant committed to a forensic facility for competency restoration or treatment for insanity may be transferred to the Mental Health Court upon agreement of the assigned Judge, State Attorney and defense counsel. All reports mandated by Fla. R. Crim. P. Rule 3.212 and Florida Statute §916.13 (and any subsequent renumbering of the rule and statute) shall be filed with the trial/committing court and a copy provided to the Mental Health Court. Upon transfer, the Mental Health Court may consider violation of conditional release, requests for status, modification, reprimands or other monitoring as may be appropriate, including review and monitoring upon return from a forensic hospital. Upon determination of competency, the case shall be immediately transferred back to the referring court.

B. Defendants Who Are Mentally Ill, Intellectually Disabled, or Autistic Seeking Diversion

Any defendant who is charged with a criminal offense (other than driving or boating under the influence) who is mentally ill, intellectually or developmentally disabled, or autistic may be transferred to Mental Health Court if the defendant and State Attorney agree to the transfer. The State Attorney shall seek input from the victim when appropriate. The decision of the State Attorney's Office to disapprove a defendant's admission into the Mental Health Court under this section may not be challenged by any defendant, the Mental Health Court, or any other Court and does not create a right of review in any court.

C. Defendants Obtaining a Downward Departure Sentence and/or Probation

Any defendant, who is mentally ill, intellectually disabled, or autistic who is placed on probation and/or who is granted a downward departure sentence in which incarceration is not imposed may be transferred to Mental Health Court for monitoring or as a condition of probation imposed by the court in lieu of or subsequent to incarceration.

D. Defendants Released from Custody with Charges Pending

Any defendant who is charged with a criminal offense and who is mentally ill, developmentally or intellectually disabled or autistic may be supervised by Mental Health Court as a condition of bond, ROR, or pretrial supervision upon order of the originating Court while awaiting disposition of case. Jurisdiction of the case will remain with the originating Court, and Mental Health Court will provide services and supervision to the defendant while the case is pending. Any new law violations, including positive drug tests, shall be immediately reported to the originating Court and the State and may include recommendations from the Mental Health Court team.

3. PROCEDURES PRIOR TO AND AFTER TRANSFER OF CASES

A. When defendants enter Mental Health Court under section 2A of this order, the trial court shall proceed pursuant to Fla. R. Crim. P. Rule 3.212 and Florida Statute §916.13 (and any subsequent renumbering of the rule and statute) prior to transferring supervision to the Mental Health Court. All subsequent requirements of Fla. R. Crim. P. Rule 3.212 and Florida Statute §916.13 (and any subsequent renumbering of the rule and statute) shall be provided to the trial court with a copy to the Mental Health Court.

B. Eligible defendants who desire to enter into Mental Health Court under section 2B of this order and who are not incompetent or who do not qualify as not guilty by reason of mental disability at the time of the offense must enter a plea to the pending charge(s) either prior to the transfer to Mental Health Court or at the first hearing conducted by the Mental Health Court, unless otherwise agreed by the State and

Defense. The Trial Judge or the Mental Health Court Judge shall accept or reject the plea pursuant to Florida Rules of Criminal Procedure. At the time of the plea, the judge shall inform the defendant that if the defendant successfully completes the Mental Health Court program, the defendant shall be allowed to withdraw the plea. After the defendant withdraws the plea following the successful completion of the program, the State Attorney and/or Mental Health Court judge shall dismiss the charges against the defendant. Any transfer of a defendant to Mental Health Court, unless specifically objected to by defense counsel, shall be deemed a waiver of the defendant's right to a speedy trial and formal discovery. Post-plea transfers shall be deemed a waiver of the right to be sentenced by the judge who accepts a plea of guilty or no contest to the charge(s).

C. Cases transferred into Mental Health Court pursuant to section 2C of this order shall proceed according to this section. The trial court may make successful completion of mental health court the sole condition of probation, or may include additional special terms of probation that will qualify as a violation, without the concurrence of the Mental Health Court team, if committed by the defendant. Any violation of the standard conditions of probation, a violation of any special condition of probation or unsuccessful termination from Mental Health Court may be considered a violation of probation. Upon initiation of a violation of probation, the case will be heard by the trial judge in the trial division. Additionally, the defendant must continue to be monitored by, attend and comply with all conditions of Mental Health Court simultaneously with the trial court appearances and obligations until the violation of probation is heard by the trial court and the VOP is otherwise disposed of. A defendant who is sentenced for a violation of probation shall not be sentenced back into Mental Health Court without prior approval of the Mental Health Court judge and State Attorney.

D. Prior to a defendant being accepted into the Mental Health Court, appropriate waivers of confidentiality shall be obtained.

E. Defendants will attend regular court hearings as ordered by the Court, participate in continued assessment and treatment and engage in discharge planning and do such other things as directed by the mental health coordinator, team and/or Court.

4. DISQUALIFICATION

A. If the Mental Health Court judge finds that the defendant either: is subsequently determined not to be mentally ill, intellectually disabled, or autistic; indicates the lack of desire to participate in Mental Health Court; or at any time demands a trial or hearing on a motion to determine legal issues related to mental health, then the defendant is no longer eligible for the Mental Health Court and shall be transferred back to the referring court.

B. If the Court determines that the defendant is no longer sufficiently participating in or benefiting from the Mental Health Court or that the defendant poses a threat to public safety, the defendant is no longer eligible for the Mental Health Court and shall be set for sentencing or other disposition. Regardless of whether the Mental Health Court judge has accepted the defendant's plea, the case may be transferred back to the referring court.

C. If the defendant is arrested or charged with any new offense, the defendant may no longer be eligible for Mental Health Court. Unless the Mental Health Court judge and the State Attorney consent to the defendant remaining in Mental Health Court, the case(s) pending before the Mental Health Court shall be transferred back to the referring court.

D. If the defendant is determined to be ineligible for Mental Health Court, the case shall be transferred back to the referring court.

5. ADMINISTRATION

A. The above provisions shall not divest any other Circuit or County criminal courts of their authority to enter orders of competency and forensic commitment and/or to hear motions for downward departure.

B. The Administrative Judge of Mental Health Court shall be responsible for administering the Mental Health Court program and coordinating the role of the judiciary with the functions of the Mental Health Court Program, Department of Children and Family Services, Agency for Persons with Disabilities, and other public and private providers of mental health services.

C. For the purpose of presiding over cases assigned to Mental Health Court, any judge assigned to or presiding over Mental Health Court cases is hereby appointed as an Acting County Court Judge and/or Acting Circuit Judge accordingly.

D. The public is entitled to access to judicial records, however, patient treatment records are deemed confidential pursuant to §§ 395.3025(7) and 393.13, Florida Statutes. In the event a treatment record or report is placed in the court file of a Mental Health Court defendant, the Mental Health Court judge will determine whether such report is confidential and exempt from public access under Florida law. If the Mental Health Court judge finds the record is exempt, the records will be sealed pursuant to Rule 2.420(f), Rules of Judicial Administration.

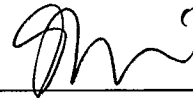
E. All hearings shall be recorded electronically.

F. Defendants participating in mental health courts may be required to pay a monthly fee and the Clerk(s) of Court are authorized to accept any participation fee or other funds collected incidental to a defendant's participation in mental health courts.

G. Mental health courts shall be maintained subject to the availability of adequate funding for their operation.

6. Administrative Order 2006-09 is hereby replaced and superseded by this Order.

SIGNED and ORDERED in quadruplicate in Chambers at Stuart, Martin County, Florida on November 26, 2014.



STEVEN J. LEVIN
Chief Judge