

The Supreme Court of South Carolina

RICHLAND COUNTY MENTAL HEALTH COURT

ORDER

This Order supersedes the Order of the Chief Justice dated June 26, 2003.

I FIND that the rapidly increasing number of misdemeanor cases and non-violent felony cases involving mentally ill defendants has contributed to congesting and overburdening the court dockets in the court systems of Richland County and the City of Columbia, as well as contributing to overcrowding in the Richland County Detention Center; and

I FURTHER FIND that there is a recognized need to treat defendants qualified to participate in a Mental Health Court before a specially trained Judge who possesses a unique understanding and ability to expeditiously and efficiently move people from an overcrowded jail system into the mental health system, without compromising the safety of the public. The intent of the Mental Health Court is to focus on the summary courts and the circuit courts as appropriate referrals are made.

NOW, THEREFORE, pursuant to Article V, Section 4 of the South Carolina Constitution,

IT IS ORDERED that effective on the date of this order, this court modifies its Order of June 26, 2003 which created the Mental Health Court and established it within the Richland County Probate Court. Any defendants arrested for non-violent misdemeanor or non-violent felony charges, who are suffering from mental illness, and/or the co-occurring disorder of substance abuse, with consent of the victim, shall be transferred to the Mental Health Court Judge, once they have been referred and accepted for admission into the Mental Health Court.

The following exclusions apply regarding the types of cases that may be accepted into Mental Health Court:

Individuals subject to a restraining order, a valid order of protection, on parole or probation, or individuals currently charged or previously convicted of a violent offense, harassment, stalking, or burglary may not be considered for the program. In addition, no defendants charged with Criminal Domestic Violence will be allowed into Mental Health Court, nor are Criminal Domestic Violence charges allowed to be pled down to participate in Mental Health Court. No defendants charged with Lewd Act on a Minor may be considered for entry into Mental Health Court. No defendants charged with Driving Under the Influence will be allowed into Mental Health Court. Defendants charged with issuing Fraudulent Checks will be accepted into Mental Health Court. The prosecutor for the City of Columbia or the Solicitor's Office, as applicable, will retain the ability to plead a case down as appropriate under certain facts and circumstances of a particular case, unless previously specifically prohibited.

In cases involving victims, the defendant may not participate if the victim does not consent to the individual's participation in Mental Health Court. In all cases referred to the Mental Health Court, the referring court is responsible for notifying the victim, if any, that the Defendant wishes his or her case to be referred to the program. The Mental Health Court Coordinator will be responsible for confirming with the victim that he or she consents to the defendant's participation in the Mental Health Court program. The Mental Health Court Coordinator will be responsible for providing proper notice to the victim that the defendant has been accepted or discharged from Mental Health Court. The victim's position regarding defendant's entry in the Mental Health Court shall be considered, however, the decision to refer the defendant will be made by the prosecutor for the City of Columbia and the Municipal Court Judge, or the Solicitor's office and the appropriate Magistrate or Circuit Court Judge, whichever is applicable. The decision as to whether to accept the defendant into Mental Health Court will be made by the Mental Health Court Coordinator and the Mental Health Court Judge, with the involvement of mental health professionals, once the Mental Health Court has been informed as to whether the victim consents to the Defendant's participation.

Upon referral and acceptance into the Mental Health Court, the Municipal Court Judges, Magistrate Judges or Clerks of Court shall assign or transfer the defendant to the Mental Health Court. The defendant shall be considered for referral at any point in the proceedings, if he or she previously or currently has been diagnosed by a mental health professional as suffering from a mental illness or has manifested obvious signs of mental illness during arrest, confinement or before any court during bond proceedings or disposition of their case. In addition, defendants shall be considered for referral at any point in the proceedings, if they previously or currently have been diagnosed by a mental health professional as suffering from a co-occurring disorder of mental illness and substance abuse or have manifested obvious signs of these co-occurring disorders during arrest, confinement or before any court during bond proceedings or disposition of their case. Defendants to be considered for referral to the Mental Health Court may be brought to the referring Court's attention by any Court, the Defense Attorney, the State, the victim, or the family of the defendant along with documentation or testimony in support thereof. Jurisdiction will be transferred to the Mental Health Court upon the defendant pleading guilty to the charges. The referring Court will not enter the plea and will defer sentence as a conditional discharge to the successful completion of Mental Health Court. With the defendant's consent, the Mental Health Court will acquire documentation relating to the defendant's mental health status and all available statements and police reports.

IT IS ORDERED that each defendant shall sign a release to enter the Mental Health Court, which is a voluntary program. The participant's release shall authorize access to all necessary criminal history and mental health history by the Mental Health Court Team. The participant shall be subject to intensive case management, including medical evaluations, medication compliance, psychotherapy, supervised living, substance abuse counseling, court sanctions, and other related social services.

IT IS ORDERED that defendants entering Mental Health Court from a Municipal or Magistrate referral Court shall enter the program for a period of not less than three (3) months and no longer than twelve

(12) months, depending on the potential sentencing aspect of jail time relating to the alleged criminal offense the defendant is facing and the discretion of the Mental Health Court Team. Defendants who enter Mental Health Court will do so after pleading guilty to their charges, and the plea will not be entered unless the defendant does not successfully complete the Mental Health Court program. Once defendants have successfully completed the program, the referring Court will be notified, and the charges precipitating their entry into said program will be dismissed. If a defendant fails to complete Mental Health Court, or decides to voluntarily withdraw from Mental Health Court, their case shall be transferred for disposition back to referring Court for entry of the guilty plea and sentencing.

IT IS ORDERED that defendants entering Mental Health Court from a General Sessions referral Court shall enter the program for a period of not less than twelve (12) months and not to exceed the maximum sentence available when a guilty plea has been entered. Defendants from General Sessions who enter Mental Health Court and successfully complete the program shall have a conviction for the charges precipitating their entry into said program, however their participation in Mental Health Court shall be considered by the General Sessions Judge as their sentence, or part of their sentence, in the discretion of the General Sessions Judge. If a defendant transferred from General Sessions Court fails to complete Mental Health Court, or decides to voluntarily withdraw, their case shall be transferred for re-sentencing or probationary disposition back to General Sessions Court.

IT IS FURTHER ORDERED that the Probate Judge for Richland County and any Richland County Associate Probate Judge assigned by the Richland County Probate Judge to Mental Health Court are hereby assigned to preside over the Richland County Mental Health Court. Pursuant to this assignment, the Richland County Probate Judge and any Richland County Associate Probate Judges are responsible for administering the program and coordinating the role of the judiciary with the functions of the S.C. Department of Mental Health; Columbia Area Mental Health Center; Lexington/Richland Alcohol and Drug

Abuse Council; City of Columbia Municipal Court; Richland County Magistrate's Court; Fifth Circuit Solicitor's Office; Probation, Parole and Pardon Services; private mental health care providers, the Richland County Sheriffs Department, and the City of Columbia Police Department, and any other agencies involved in providing services to the population of persons who will be served by the Mental Health Court. The Richland County Probate Judges shall be responsible for overseeing all defendants referred to and accepted by the Richland County Mental Health Court.

This order is effective immediately and remains in effect unless amended or rescinded by Order of the Chief Justice.

S/ _____
Jean H. Toal, Chief Justice

November 21, 2005
Columbia, South Carolina