

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT, IN
AND FOR BROWARD COUNTY, FLORIDA
ADMINISTRATIVE ORDER NO. III-02-N-1A

IN RE:
ORDER CONCERNING CREATION
OF THE MENTAL HEALTH PROBATION
PROGRAM WITHIN THE CIRCUIT COURT
CRIMINAL DIVISION

WHEREAS, this Circuit has recognized that the creation of specialized treatment programs has enhanced the expediency, effectiveness and quality of Judicial Administration;

WHEREAS, it is essential that a new strategy be implemented to focus upon individuals charged with offenses where probation is appropriate and otherwise permitted by law, who are mentally ill or mentally retarded, in view of the unique nature of mental illness and mental retardation, and the need for appropriate treatment in an environment conducive to wellness and not punishment, as well as the continuing necessity to ensure the protection of the public, and

WHEREAS, there is a recognized need to treat defendants who desire such treatment and who are placed on supervision with the Department of Corrections, to be supervised by Probation Officers who are particularly sensitive to their needs and conditions and who will coordinate efforts with the appropriate treatment programs and social service agencies within the mental health system, without compromising the safety of the public, and

WHEREAS, the Department of Corrections has designated and trained certain probation officers to act as Mental Health Probation Officers in recognition of the special needs of mentally ill and mentally retarded probationers, and

WHEREAS, the rapidly increasing number of cases involving mentally ill or mentally retarded defendants has contributed to the congestion and overburdening of the court dockets in the Circuit Court Criminal division, as well as jail overcrowding, and

WHEREAS ordering Mental Health Probation for mentally ill or mentally retarded defendants so that they may be monitored by this recognized and identified program within the Department of Corrections would increase the efficiency of the Criminal Court System as well as the quality of the supervision of these cases in this Circuit, and

WHEREAS, this Circuit has recognized that the administration of such treatment or program is most effective if the defendants participate of their own free choice and volition, and this Circuit specifically recognizes their ability and their right to make that choice and decline entry into this program if they so choose,

IT IS NOW THEREFORE

ORDERED that:

Effective January 2, 2002, if deemed appropriate by the presiding Judge and otherwise permitted by law, and with the specific agreement and consent of the defendants themselves, defendants suffering from mental illness or mental retardation, as diagnosed by a qualified mental health expert, may be sentenced to a probationary period entitled "Mental Health Probation" to be supervised by specially designated Probation Officers within the Department of Corrections. For the just and efficient administration of the Mental Health Probation Program, the following procedures are to be followed when sentencing a defendant to the program:

1. Any Defendant intending on being sentenced to Mental Health Probation shall first file a Notice of Intent to be Evaluated for Mental Health Probation.
2. Prior to being sentenced to Mental Health Probation, the Defendant shall be interviewed by a Felony Mental Health Coordinator designated by the Court Administrator's Office. Any information gathered from the Defendant, relevant to criminal activity other than that for which he is charged, pursuant to this interview, shall be disclosed only to defense counsel. Any information pertaining to the crime for which the Defendant stands charged shall only be used to determine his/her eligibility for Mental Health Probation and shall not be used against the Defendant. The sole purpose of the Felony Mental Health Coordinator interview is to evaluate the Defendant's eligibility for Mental Health Probation and to develop a treatment plan.
3. If determined eligible by the Mental Health Coordinator for Mental Health Probation, the Mental Health Coordinator will develop a treatment plan to be incorporated into the Orders of Probation at sentencing. The plan shall be made available to the Defendant or his attorney, the Office of the State Attorney and the Department of Corrections prior to sentencing.
4. At sentencing, a defendant placed on Mental Health Probation shall be informed by the Court that his/her sentence shall include, as a special condition of probation, participation in a specific and comprehensive treatment plan.
5. As a prerequisite to placement on Mental Health Probation, a defendant shall execute an Authorization for Release of Medical and Psychological Records as deemed necessary for the treatment of the defendant's mental illness and/or supervision by the Department of Corrections. Said release shall be to the Mental Health Treatment Provider with redisclosure to the Department of Corrections, counsel for the Defendant and the Office of the State Attorney. The medical and psychological records provided to these agencies shall be kept separate from all other records of the defendant with the intent that they remain confidential pursuant to Florida Statutes 394.4615 and 945.10. All materials gathered pursuant to this release shall be confidential as set forth in the release authorization.

6. If a defendant placed on Mental Health Probation is indigent, the Court may convert any court costs to a civil lien, and the court shall order that failure to pay court costs shall not be the basis for an affidavit/warrant for violation of probation.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida
on this the 9th day of January, 2002, nunc pro tunc January 2, 2002.

/s/DALE ROSS
DALE ROSS, CHIEF JUDGE

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