

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE 12TH JUDICIAL DISTRICT
POLK COUNTY

2022 SEP 28 PM 4:33

POLK COUNTY OREGON

In the Matter of Rapid Fitness to Proceed) Presiding Judge Order No. 22-005
Docket) ORDER ESTABLISHING A RAPID FITNESS TO
) PROCEED DOCKET IN POLK COUNTY

WHEREAS, the 2021 Legislative Assembly enacted Oregon Laws 2021, passed Senate Bill 295 amending ORS 161.365, et., seq, relating to fitness to proceed and declaring an emergency; and

WHEREAS, Senate Bill 295 amended ORS 161.370(4)(a) to require, in the case of defendants accused of misdemeanors, both the opinion of a certified evaluator that the individual needs hospital level of care due the acuity of symptoms relating to the defendant's qualifying mental disorder and the opinion of the community mental health provider (CMHP) that appropriate restoration services are not present and available in the community, or additional findings by the CMHP

WHEREAS, the Court has recently issued PJO 22-004 establishing a Pretrial Release Program, wherein those who do not participate in the booking and interview process are to be held for arraignment, and many of those individuals are unable to complete the process because of their lack of fitness to stand trial;

WHEREAS, the Court finds that Polk County does not have the resources to treat defendants who require a hospital level of care, and those defendants who require a hospital level of care frequently do not gain or regain fitness in less than six months,

IT IS HEREBY ORDERED Polk County shall establish a Rapid Access Docket (RAD).

1. The scheduling shall be as follows:
 - a. Staffing shall be held for one hour once a week in Courtroom 4.
 - b. Court hearings shall be held immediately after staffing in Courtroom 4.
2. The Team shall be comprised of the following individuals:
 - a. Judge
 - b. Aid and Assist Clerk
 - c. Forensic Evaluator
 - d. Aid and Assist coordinator or staff from the CMHP
 - e. Representative from the District Attorney's Office
 - f. Representative from Polk County's primary public defense firm
 - g. Representative from the Polk County Conflicts Consortium
 - h. Representative from the Polk County Jail
 - i. Representative from DD Services
3. The Team shall accept 1-3 new defendants per week, depending on provider availability, based on the following criteria:

- a. Each defendant must have a Severe Persistent Mental Illness (SPMI) that would qualify them under 161.365, et. seq.
 - b. Levels of crimes shall be prioritized in the following order:
 - i. B or C misdemeanors;
 - ii. A misdemeanors;
 - iii. Presumptive probation felonies;
 - iv. Presumptive prison felonies;
 - v. Measure 11 crimes.
 - c. Types of defendants will be prioritized in the following order:
 - i. Defendants who were set over from the prior weeks
 - ii. Defendants who would have been released pursuant to Presiding Judge Order 22-004 but for their failure to participate in the booking and interview process;
 - iii. Defendants who are coming through the RAD on a second or subsequent time.
4. Defendants may be referred in the following fashions:
- a. Behavioral Health staff, a Release Assistance Officer (RAO), or a jail deputy may alert the Court via the Release Determination Report (RDR) by checking the "Possible fitness issues?" box;
 - b. The Court may refer based on the RDR or the Court's own observations; or
 - c. Defense Counsel may refer via referral form, attached hereto as Exhibit A, after meeting with their client, by sending the referral to the Program Coordinator.
 - i. If referred by a court appointed attorney, funding for the evaluation from the Office of Public Defense Services (OPDS) shall be applied for prior to the referral.
 - 1. Any applications to OPDS for funds shall be marked "RUSH."
 - ii. If referred by retained counsel, funding for the evaluation shall be secured prior to the referral.
5. The RAD shall additionally handle all proceedings regarding a Defendant's fitness, including:
- a. Order for CMHP evaluation;
 - b. Order for Forensic evaluation;
 - c. Orders for records;
 - d. Status checks for defendants on Community Restoration;
 - e. Status checks for defendants being restored at Oregon State Hospital (OSH); and
 - f. Weekly check-ins for defendants awaiting transport to OSH.
6. The process into and through the RAD shall be as follows:
- a. Jail mental health, an RAO, or a Defense attorney refer a defendant, as listed in subsection 4, above;
 - b. The Court, either from their own observations, or via RDR or Defense Attorney referral, order the CMHP evaluation;
 - c. The Program Coordinator will send out the referral information to the Team and set the defendant into the next RAD staffing and court sessions;
 - d. During staffing, the Team will discuss those returning defendants who will appear that day, and will determine priority as to who will be evaluated that week;
 - e. During the court session, the parties will put on the record what is necessary to move the case forward.

7. Considerations for individuals on Community Restoration
 - a. Defendants ordered to community restoration shall be on conditional releases, requiring that they go to the CMHP for assessment and treatment, and that an ROI is signed, that they check in with the RAO as directed, and any other directives the Court sees fit; and
 - b. Defendants ordered to community restoration shall appear for status check on the first RAD of each month, or more frequently as the Court orders.
8. Considerations for individuals at OSH
 - a. Upon receipt by the Court of an evaluation conducted by OSH, the Aid and Assist Clerk will set the participant on the RAD immediately following the receipt for status check;
 - b. Any medication issues and forced medication orders shall be heard and issued within the RAD, and any requests for such hearings shall be set on the RAD immediately following the request;
 - c. If OSH issues a "Ready to Discharge" letter, or if the Defendant is otherwise going to be discharged from OSH, the Aid and Assist Clerk shall:
 - i. Serve copies on the parties;
 - ii. Set the defendant onto the RAD immediately following the receipt of the notice; and
 - iii. If the defendant is in further need of restoration services, coordinate with the CMHP to insure that a community restoration evaluation is done within 5 days, to be filed with the Court.

This Presiding Judge Order supersedes all previous orders on the same subject and shall remain in effect until further Order of this Court.

Dated this 28 day of Sept, 2022



Norman R. Hill
Presiding Judge