



BUTLER COUNTY COMMON PLEAS COURT
PROBATE DIVISION

RANDY T. ROGERS, JUDGE

August 9, 2002

Donald F. Eslinger
Sheriff, Seminole County
100 Bush Boulevard
Sanford, FL 32773

Dear Sheriff Eslinger,

I read recently that in the year 2000 Florida law enforcement officials in nearly half of Florida's counties initiated all certificates for involuntary psychiatric examinations. In a free society, persons in dire need of mental health treatment should not have to be arrested in order to obtain the treatment they need. I commend the Florida Sheriff's Association for advocating an improvement to Florida's civil commitment law that will make it more likely that persons in need of treatment will be introduced to mental health treatment by trained mental health workers rather than by law enforcement officials.

Just as a state has authority under its police power to protect the community from the dangerous tendencies of some who are mentally ill, the U.S. Supreme Court has consistently held that a state has a legitimate interest under a state's *parens patriae* power to order treatment for those who are unable because of mental or emotional disorders to seek or obtain that treatment for themselves.

Since 1995, I have presided over more than 600 civil commitment cases and have heard hours of testimony from family members pleading with the court for an order that their loved ones receive mental health treatment. From experience, I have found that the timely and appropriate exercise of a state's *parens patriae* power in civil commitment actions makes it less likely that these persons will be arrested for committing a crime before treatment is sought or obtained.

Currently we have about 100 such cases pending. In 20% of those cases the persons are receiving treatment in an in-patient hospitalization setting and in the other 80% the persons are receiving treatment in a less restrictive setting which allows for placement in the community. All of these cases involve persons that have been found under Ohio law to be suffering from severe mental illnesses such as schizophrenia, bi-polar disease, or severe depression that grossly impair their judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

My court is in a suburban county with a population of 340,000. With exclusive jurisdiction over the administration of estates, guardianships, adoptions and other related areas of the law, our Probate Court processes thousands of cases each year. The 100 pending civil commitment cases do not burden this

BUTLER COUNTY COURTHOUSE
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court's docket, and do not significantly impact the court's budget. At most civil commitment hearings, evidence is uncontroverted, admitted by stipulation, and individual hearings normally take only a few minutes. In general, individual cases come before the court no more than 3 times in a year.

Our Probate Court uses outpatient commitment more frequently than most other Ohio counties, which means we have a more active civil commitment docket than many other counties. But even though we have a more active civil commitment docket than other counties, these cases still do not burden our dockets.

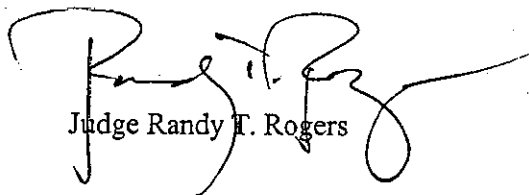
Preliminary findings of a survey of Ohio probate court practices in 88 Ohio counties done by the Public Health Committee and the Ohio Coalition of Community Psychiatrists were recently published in a publication called "Insight Matters." In the publication, it was reported that *"outpatient commitment" (OPC) varies widely across the state. 32 counties, including 8 of the largest 10, indicated use of commitment in the community...Possible implication: OPC is controversial but may be an effective tool to help sustain a group of individuals in the community with persistent impairment in decision-making who would otherwise continue to revolve through the doors of hospitals and jails.*

I agree with the stated implication in the report – outpatient commitment is *"an effective tool to help sustain a group of individuals in the community with persistent impairment in decision-making who would otherwise continue to revolve through the doors of hospitals and jails."* I hope that your efforts to reform Florida's civil commitment laws will also result in an increased use of outpatient commitments in your state.

In closing, I would like to share with you a good report received today. In response to a survey, the court received a communication from the mother of a person this court ordered into treatment a few years ago. This mother was one of those family members that "pleaded with this court for an order that their loved one receive mental health treatment." At the time of the commitment, this mother's adult child was eating out of garbage cans and had been standing in front of the local post office all night, night after night, for months. She was not a danger to anyone, but she was suffering from a mental illness, an illness she denied having. The police tried to watch out for her, especially during the middle of the night, but could not bring themselves to arrest her for loitering. Her mother believes that had the court not intervened, her daughter would have died. Under current Florida law, I am not certain that she could have been committed. Under Ohio law she could be committed and was committed. Today, several years later, that person is doing well, understands her need to take medication, works at an elderly care facility, and sings in a church choir. Her mother is very grateful.

Keep up your good work.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy T. Rogers", with a long, sweeping horizontal line extending to the right.

Judge Randy T. Rogers